

House Engrossed Senate Bill

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KEN BENNETT
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CHAPTER 200

SENATE BILL 1006

AN ACT

AMENDING SECTIONS 9-453, 9-972, 20-224.01, 35-142, 35-392, 38-641, 38-642, 38-643, 38-644, 38-645, 38-651.01, 38-782, 38-801, 38-802, 38-803, 38-803.01, 38-804, 38-806, 38-807, 38-808, 38-809, 38-810, 38-810.01, 38-810.03, 38-814, 38-815, 38-816, 38-817, 38-819, 38-842, 38-843, 38-843.01, 38-843.02, 38-843.04, 38-844, 38-844.02, 38-844.05, 38-844.09, 38-846, 38-846.02, 38-847, 38-848, 38-848.01, 38-848.03, 38-849, 38-850, 38-851, 38-853, 38-853.01, 38-855, 38-856.01 AND 38-857, ARIZONA REVISED STATUTES; AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2009, CHAPTER 35, SECTION 21 AND CHAPTER 83, SECTION 1; AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2009, CHAPTER 35, SECTION 22 AND CHAPTER 83, SECTION 2; AMENDING SECTIONS 38-882, 38-883, 38-883.01, 38-884, 38-885.01, 38-891, 38-892, 38-893, 38-894, 38-895.01, 38-897, 38-900, 38-902, 38-904, 38-905.01, 38-906, 38-908, 38-909, 38-912, 38-921, 38-923, 38-951, 38-952, 41-2501 AND 41-3016.18, ARIZONA REVISED STATUTES; RELATING TO PUBLIC RETIREMENT SYSTEMS AND PLANS; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-453, Arizona Revised Statutes, is amended to
3 read:

4 9-453. Cemetery maintenance fund

5 A. The governing body of a city or town having and maintaining a
6 cemetery, may establish a maintenance fund to provide for the maintenance
7 and care of such cemetery. Such maintenance fund shall consist of all
8 amounts received by the city or town in the form of bequests, donations,
9 grants or gifts of all kinds or property, in fee simple or otherwise, for the
10 purpose of cemetery maintenance, and cities and towns are empowered to accept
11 such bequests, donations, grants and gifts to become part of such maintenance
12 funds. In addition, there may be paid into such fund each year such amounts
13 as the governing body may determine.

14 B. All amounts paid into or ~~which~~ THAT become a part of a cemetery
15 maintenance fund may be invested or reinvested by the governing body in the
16 manner provided in section 38-848 for the investment of funds of the public
17 safety personnel retirement system, and the duties, limitations, and
18 obligations of the governing body with respect to such maintenance fund
19 shall, so far as practical, be the same as the duties, limitations and
20 obligations of the ~~fund-manager~~ BOARD OF TRUSTEES with respect to the funds
21 of the public safety personnel retirement system.

22 Sec. 2. Section 9-972, Arizona Revised Statutes, is amended to read:

23 9-972. Inapplicability of article

24 A. Effective from and after June 30, 1968, this article shall be
25 amended as to all full-time paid firemen, and employees other than volunteer
26 firemen employed after June 30, 1968, shall be covered by ~~the provisions of~~
27 the public safety personnel retirement system in those cities ~~which~~ THAT have
28 established a pension system under ~~the provisions of this article prior to~~
29 ~~the effective date of this section~~ BEFORE JULY 1, 1968, subject to the right
30 of election provided for in section 38-854. However, those employers
31 presently participating under the sections 9-912 ~~to~~ THROUGH 9-971 shall not
32 come under ~~the provisions of~~ the social security act as to their employees.

33 B. Notwithstanding any provision of law to the contrary, effective
34 from and after June 30, 1968, this article shall apply only to volunteer
35 firemen and all amounts accumulated under this article for full-time paid
36 firemen, as determined by actuarial procedures prescribed by the ~~fund-manager~~
37 BOARD OF TRUSTEES of public safety personnel retirement system, shall be
38 transferred to the fund maintained under the public safety personnel
39 retirement system, and accounted for by each employer. Each full-time paid
40 fireman employed after June 30, 1968, shall be covered by ~~the provisions of~~
41 the public safety personnel retirement system, which continues and amends
42 this fund in regard to full-time paid employees.

1 Sec. 3. Section 20-224.01, Arizona Revised Statutes, is amended to
2 read:

3 20-224.01. Additional premium tax

4 A. Coincident with the filing of the tax report as required in section
5 20-224, each insurer shall pay to the director, for deposit, pursuant to
6 sections 35-146 and 35-147, a tax of .4312 per cent of such net premiums
7 received from all insurance carried for or on vehicles as defined in section
8 28-101, in addition to other applicable taxes.

9 B. The tax of .4312 per cent of such net premiums received by the
10 director and paid by an insurer on account of premiums received for insurance
11 on certain vehicles as defined in section 28-101 shall be separately
12 specified in the insurer's report required in section 20-224 and is
13 appropriated to the public safety personnel retirement system and shall be
14 transferred by the state treasurer to the ~~fund-manager~~ BOARD OF TRUSTEES of
15 the public safety personnel retirement system for deposit in the highway
16 patrol account. If the tax received is greater than the amount necessary to
17 fund the highway patrol account, beginning in the 1991-1992 fiscal year the
18 state treasurer shall deposit the excess in the Arizona highway patrol fund
19 established in section 41-1752 in any amount required by legislative
20 appropriation.

21 C. An insurer shall report and pay the taxes required by this section
22 in the manner prescribed by section 20-224. An insurer who fails to pay the
23 tax on or before the prescribed payment dates is subject to a civil penalty
24 determined pursuant to section 20-225.

25 D. An insurer shall not claim a premium tax credit pursuant to section
26 20-224.03 or 20-224.04 for the premium taxes paid pursuant to this section.

27 Sec. 4. Section 35-142, Arizona Revised Statutes, is amended to read:

28 35-142. Monies kept in funds separate from state general fund;
29 receipt and withdrawal

30 A. All monies received for and belonging to the state shall be
31 deposited in the state treasury and credited to the state general fund except
32 the following, which shall be placed and retained in separate funds:

33 1. The unexpendable principal of monies received from federal land
34 grants shall be placed in separate funds and the account of each such
35 separate fund shall bear a title indicating the source and the institution or
36 purpose to which such fund belongs.

37 2. The interest, rentals and other expendable money received as income
38 from federal land grants shall be placed in separate accounts, each account
39 bearing a title indicating the source and the institution or purpose to which
40 the fund belongs. Such expendable monies shall be expended only as
41 authorized, regulated and controlled by the general appropriation act or
42 other act of the legislature.

43 3. All private or quasi-private monies authorized by law to be paid to
44 or held by the state treasurer shall be placed in separate accounts, each
45 account bearing a title indicating the source and purpose of such fund.

1 4. All monies legally pledged to retirement of building indebtedness
2 or bonds issued by those institutions authorized to incur such indebtedness
3 or to issue such bonds shall be placed in separate accounts.

4 5. Monies of a multi-county water conservation district authorized by
5 law to be paid to or held by the state treasurer shall be placed in separate
6 accounts, each account bearing a title indicating the source and purpose of
7 such fund.

8 6. All monies collected by the Arizona game and fish department shall
9 be deposited in a special fund known as the state game and fish protection
10 fund for the use of the Arizona game and fish commission in carrying out the
11 provisions of title 17.

12 7. All federal monies that are received by the department of economic
13 security for family assistance benefits and medical eligibility as a result
14 of efficiencies developed by the department of economic security and that
15 would otherwise revert to the state general fund pursuant to section 35-190
16 shall be retained for use by the department of economic security in
17 accordance with the terms and conditions imposed by the federal funding
18 source in an account or accounts established or authorized by the state
19 treasurer.

20 8. Monies designated by law as special state funds shall not be
21 considered a part of the general fund. Unless otherwise prescribed by law,
22 the state treasurer shall be the custodian of all such funds.

23 9. All monies received and any accounts established and maintained by
24 the director of the Arizona state retirement system or the ~~fund manager~~
25 ADMINISTRATOR of the public safety personnel retirement system, the
26 corrections officer retirement plan and the elected officials' retirement
27 plan.

28 B. No money shall be received or held by the state treasurer except as
29 authorized by law, and in every instance the treasurer shall issue a receipt
30 for money received and shall record the transaction in the statewide
31 accounting system. No money shall be withdrawn from the treasury except ~~upon~~
32 ON the warrant or electronic funds transfer voucher of the department of
33 administration.

34 C. All federal monies granted and paid to the state by the federal
35 government shall be accounted for in the accounts or funds of the state in
36 the necessary detail to meet federal and state accounting, budgetary and
37 auditing requirements, and all appropriations for matching such federal
38 monies shall be transferred from the general fund to such separate funds as
39 needed, except as otherwise required by the federal government.

40 D. Nothing in this section requires the establishment of separate
41 accounts or funds for such federal monies unless otherwise required by
42 federal or state law. The department of administration has the authority to
43 use the most efficient system of accounts and records, consistent with legal
44 requirements and standard and necessary fiscal safeguards.

1 E. Nothing in this section precludes the creation by the department of
2 administration of a clearing account or other acceptable accounting method to
3 effect prompt payment of claims from an approved budget or appropriation.
4 The department of administration shall report each account or fund
5 established or cancelled to the directors of the joint legislative budget
6 committee and the governor's office of strategic planning and budgeting.

7 F. Nothing in this section or any other section precludes the use of
8 monies kept in funds separate from the general fund, the interest from which
9 accrues to the general fund, for payment of claims against the general fund,
10 provided sufficient monies remain available for payment of claims against
11 such funds.

12 G. The department of administration may issue warrants for qualified
13 expenditures of federal program monies before they are deposited in the state
14 treasury. The receipt of federal monies shall be timed to coincide, as
15 closely as administratively feasible, with the redemption of warrants by the
16 state treasurer. The department of administration shall limit expenditures
17 to the amount that has been made available for the use under the grant award
18 by the federal government. The state agency initiating the expenditures is
19 responsible for ensuring that expenditures qualify for coverage under the
20 guidelines of the federal grant award.

21 H. The department of administration shall establish the policies and
22 procedures for all state agencies for drawing federal monies. When the
23 established method results in federal monies being held by this state, the
24 department of administration may use the interest earned on the monies to pay
25 the federal government for any related interest liability. If an interest
26 liability is incurred due to a state agency varying from the established
27 policies and procedures, the department of administration shall charge the
28 appropriate agency account or fund. Interest payment charges to agencies
29 shall be reported by the department of administration to the joint
30 legislative budget committee on or before March 1. Any federal interest
31 liability owed to this state as a result of the delayed federal disbursements
32 shall be used to offset this state's interest liability to the federal
33 government. Any remaining interest earnings shall be deposited in the state
34 general fund.

35 I. Any state agency or authorized agent of a state agency may accept
36 credit cards pursuant to an agreement entered into by the state treasurer
37 pursuant to section 35-315 for the payment of any amount due to that agency
38 or agent or this state.

39 J. Except for the department of revenue for tax payments, agencies or
40 authorized agents on behalf of state agencies that accept credit cards shall
41 deduct any applicable discount fee and processing fee associated with the
42 transaction amount before depositing the net amount in the appropriate state
43 fund. No other reduction is permitted against the transaction amount. The
44 net amount deposited in the appropriate state fund shall be considered as the
45 full deposit required by law of monies received by the agency or the

1 authorized agent. Payment of any applicable discount fee and processing fee
2 shall be accounted for in the annual report submitted to the governor's
3 office of strategic planning and budgeting in accordance with section
4 41-1273. The transaction amount of any credit card transaction shall not be
5 reduced by any discount fee or processing fee in an amount in excess of the
6 merchant card settlement fees reflected in the state banking contract with
7 the state treasurer's office.

8 K. Any state agency that contracts with an authorized agent for the
9 electronic processing of transactions pursuant to title 41, chapter 23 may
10 include a provision in the contract to allow the authorized agent to impose a
11 convenience fee. If allowed, the convenience fee shall be charged to the
12 cardholder in addition to the transaction amount, except for the following:

13 1. Except as provided in subsection R of this section, any permits,
14 licenses or other authorizations needed to pursue a trade or occupation in
15 this state.

16 2. Except as provided in subsection R of this section, any permits,
17 licenses or other authorizations needed to establish, expand or operate a
18 business in this state.

19 3. Except as provided in subsection R of this section, any permits,
20 licenses or other authorizations needed to register a vehicle or license a
21 driver in this state.

22 L. Each state agency or its authorized agent shall:

23 1. Deduct the amount of the convenience fee before depositing the
24 transaction amount or the transaction amount reduced by the discount fee or
25 the processing fee, or both, into the appropriate state fund.

26 2. Not deduct any part of the convenience fee from the transaction
27 amount before depositing the net amount into the appropriate state fund.

28 3. Deduct the amount of the discount fee or the processing fee, or
29 both, from the transaction amount before depositing the net amount into the
30 appropriate state fund.

31 M. The net amount deposited in the appropriate state fund pursuant to
32 subsection K or ~~subsection L~~ of this section shall be considered as the full
33 deposit of monies that is required by law and that is received by the agency.

34 N. Notwithstanding section 35-142.01, convenience fees received by a
35 state agency or its authorized agent are limited to, and may be used to
36 offset, the costs imposed by the authorized agent in processing the
37 transactions.

38 O. When the percentage of electronic transactions first exceeds at
39 least thirty per cent of a state agency's total transactions, the state
40 agency shall perform a cost benefit report, including costs of convenience
41 fees, the amount of revenue generated and any realized cost savings. The
42 state agency shall submit the cost benefit report to the joint legislative
43 budget committee within six months after reaching the thirty per cent
44 threshold.

1 P. State agencies shall report the number of transactions, the number
2 of electronic transactions, the total dollar amount of transactions
3 processed, the total dollar amount of any discount fee, the total dollar
4 amount of any processing fee and the total dollar amount of any convenience
5 fee charged, deducted or paid pursuant to subsections J and K of this section
6 annually by October 1 to the governor, the government information technology
7 agency and the joint legislative budget committee.

8 Q. Nothing in this section or any other provision of law authorizes
9 any state agency, authorized agent of any state agency or budget unit to
10 establish a bank account for any government monies. All monies received by
11 or on behalf of this state shall be deposited with and in the custody of the
12 state treasurer or in an account that is authorized by the state treasurer
13 pursuant to this section. This subsection does not apply to monies received
14 and any accounts established and maintained by the director of the Arizona
15 state retirement system or the ~~fund-manager~~ ADMINISTRATOR of the public
16 safety personnel retirement system, the corrections officer retirement plan
17 and the elected officials' retirement plan.

18 R. If a state agency provides an alternative method of payment, the
19 convenience fee may be charged to the cardholder in addition to the
20 transaction amount.

21 Sec. 5. Section 35-392, Arizona Revised Statutes, is amended to read:

22 35-392. State treasurer and retirement system divestments;
23 policy notices

24 A. The state board of investment, the Arizona state retirement system
25 BOARD and the ~~fund-manager~~ BOARD OF TRUSTEES of the public safety personnel
26 retirement system shall each adopt a policy, and submit a copy of the policy
27 to the president of the senate and the speaker of the house of
28 representatives, regarding the countries identified as those countries
29 currently designated by the United States department of state as state
30 sponsors of terrorism. The policy shall include:

31 1. The procedure to identify United States companies that are in
32 violation of section 6(j) of the export administration act.

33 2. The process for communicating with the companies and appropriate
34 federal officials, including this state's congressional delegation, in regard
35 to its findings pursuant to this section.

36 3. The process for divestment from the companies that are identified
37 pursuant to paragraph 1.

38 B. The state treasurer, the Arizona state retirement system BOARD and
39 the ~~fund-manager~~ BOARD OF TRUSTEES of the public safety personnel retirement
40 system shall divest from those companies, based on public information,
41 identified pursuant to subsection A, paragraph 1.

42 C. The state treasurer, the Arizona state retirement system BOARD and
43 the ~~fund-manager~~ BOARD OF TRUSTEES OF THE PUBLIC SAFETY PERSONNEL RETIREMENT
44 SYSTEM shall notify the governor, the president of the senate, the speaker of
45 the house of representatives, the director of the department of

1 administration and each other of any divestments and the reasons for the
2 divestments.

3 D. Within fourteen days after receipt of the notice pursuant to
4 subsection C, the director of the department of administration shall send
5 notice to the company indicating that this state and its political
6 subdivisions are prohibited from purchasing any product or service from the
7 company until the company is no longer identified pursuant to subsection A,
8 paragraph 1.

9 E. The prohibition in subsection D does not apply to any existing
10 contract but does apply to any renewal of a contract.

11 F. This section applies to all affiliated companies and subsidiaries
12 of the company.

13 Sec. 6. Section 38-641, Arizona Revised Statutes, is amended to read:

14 38-641. Definitions

15 In this article, unless the context otherwise requires:

16 1. "BOARD" MEANS THE BOARD OF TRUSTEES OF THE PUBLIC SAFETY PERSONNEL
17 RETIREMENT SYSTEM ESTABLISHED BY SECTION 38-848, INCLUDING ITS AUTHORIZED
18 EMPLOYEES, ADMINISTRATORS, ATTORNEYS AND AGENTS.

19 2. "Employer" means this state or any political subdivision of
20 this state, including cities, towns, fire districts and Indian tribes, that
21 employs fire fighters or peace officers and that participates in the public
22 safety personnel retirement system established by chapter 5, article 4 of
23 this title.

24 ~~2. "Fund manager" means the fund manager of the public safety~~
25 ~~personnel retirement system established by section 38-848, including its~~
26 ~~authorized employees, administrators, attorneys and agents.~~

27 3. "Peace officer" means a certified peace officer as defined in
28 section 38-842.

29 4. "Program" means the fire fighter and peace officer cancer insurance
30 policy program established by this article.

31 Sec. 7. Section 38-642, Arizona Revised Statutes, is amended to read:

32 38-642. Fire fighter and peace officer cancer insurance policy
33 program

34 A. The ~~fund manager~~ BOARD shall establish and administer a fire
35 fighter and peace officer cancer insurance policy program for participating
36 employers that employ fire fighters or peace officers. For the purposes of
37 the internal revenue code, the program is an integral part of a political
38 subdivision of this state.

39 B. Participating employers that employ fire fighters or peace officers
40 shall participate in the program.

41 C. The ~~fund manager~~ BOARD shall contract for a group cancer insurance
42 policy to provide coverage as prescribed by section 38-645 or may self-insure
43 the program by establishing an insurance policy that is of its own design and
44 that is underwritten by the assets of the fire fighter and peace officer
45 cancer insurance policy program account established by section 38-643. When

1 procuring, establishing or administering any cancer insurance policy provided
2 pursuant to this article the ~~fund-manager~~ BOARD is exempt from the
3 requirements of title 41, chapter 23.

4 D. On or before July 31 of each year, the ~~fund-manager~~ BOARD shall
5 notify each employer required to participate in the program of the total
6 amount payable to the ~~fund-manager~~ BOARD to pay for the costs of the program.
7 The amount charged to each employer shall not exceed one hundred eighty
8 dollars for each employee of the employer who is a fire fighter or peace
9 officer on record with the ~~fund-manager~~ BOARD as of June 30 of that year.
10 Each employer shall pay this amount to the ~~fund-manager~~ BOARD on or before
11 August 31 of each year.

12 E. Employers that fail to pay the amount required by subsection D of
13 this section by August 31 shall pay a fifteen per cent late charge to the
14 ~~fund-manager~~ BOARD on all delinquent amounts accrued monthly. If the amount
15 due and the late charge are not paid within thirty days, the ~~fund-manager~~
16 BOARD may recover the amounts due from the employer by either:

17 1. Filing an action in a court of competent jurisdiction to recover
18 the amount due.

19 2. Requesting a deduction of any monies, including excise revenue
20 taxes, payable to the employer by any department or agency of this state.

21 F. If the ~~fund-manager~~ BOARD self-insures the program the ~~fund-manager~~
22 BOARD and the program are exempt from title 20 and any rules adopted pursuant
23 to title 20.

24 Sec. 8. Section 38-643, Arizona Revised Statutes, is amended to read:

25 38-643. Fire fighter and peace officer cancer insurance policy
26 program account

27 A. The fire fighter and peace officer cancer insurance policy program
28 account is established and shall be under the exclusive control of the ~~fund~~
29 ~~manager~~ BOARD. The ~~fund-manager~~ BOARD shall deposit monies collected
30 pursuant to section 38-642 in the account to pay the cost of providing a
31 group cancer insurance policy under the program and the cost of administering
32 the program.

33 B. The ~~fund-manager~~ BOARD may use up to ten per cent of the monies
34 deposited in the account each year ending July 31 to pay the costs of
35 administering the program, except that ~~fund-manager~~ BOARD attorney fees and
36 court costs relating to the program shall be paid out of the account and are
37 not subject to this limitation.

38 C. The ~~fund-manager~~ BOARD shall cause an independent audit of the
39 account to be performed at the end of each fiscal year and shall report the
40 results of the audit to each employer within six months following the end of
41 the fiscal year.

42 D. The employer contributions and securities in the account and
43 investment earnings on monies in the account are exempt from state, county
44 and municipal taxes.

1 E. The program is a welfare benefit plan or trust intended to pay
2 expenses incurred in the treatment of cancer as provided in the policy of
3 insurance secured or established by the ~~fund-manager~~ BOARD pursuant to
4 section 38-642. The legislature intends that the program's income be
5 excluded as gross income for the purposes of the assessment of federal income
6 tax under section 115 of the internal revenue code and that coverage under
7 the program be excluded as gross income to the employees or retirees under
8 section 106 of the internal revenue code. The ~~fund-manager~~ BOARD may adopt
9 additional program provisions as are necessary to fulfill its intent that the
10 program's income and premiums are not subject to federal income tax.

11 F. Employers, the ~~fund-manager~~ BOARD OF TRUSTEES and any member of a
12 local board do not guarantee the account in any manner against loss or
13 depreciation and are not liable for any act or failure to act made in good
14 faith pursuant to this article, including determinations on program claims.

15 Sec. 9. Section 38-644, Arizona Revised Statutes, is amended to read:
16 38-644. Eligibility

17 A. Except as provided in subsections B, C and D, to qualify for
18 covered benefits under the program, a person must satisfy all of the
19 following criteria:

20 1. Be an active or retired member of the public safety personnel
21 retirement system.

22 2. Be a firefighter who is or was regularly assigned to hazardous duty
23 of the type normally expected of a firefighter or be a peace officer.

24 3. Have cancer that was first diagnosed after the person's date of
25 membership in the public safety personnel retirement system.

26 B. Persons who terminate employment with a participating employer are
27 not eligible for benefits under the program unless the person has made a
28 valid claim for payment of expenses under the program before termination of
29 employment.

30 C. On retirement, persons who were either receiving benefits under the
31 program before retirement or who are diagnosed with cancer subsequent to
32 retirement remain eligible for coverage under the program for five months for
33 each year of credited service accumulated toward retirement under the public
34 safety personnel retirement system.

35 D. A person whose eligibility to receive benefits under subsection C
36 is expiring may continue to remain eligible for coverage under the program if
37 the person makes an election with the ~~fund-manager~~ BOARD and pays to the ~~fund~~
38 ~~manager~~ BOARD the cost of the premium as determined by the ~~fund-manager~~ BOARD
39 at the time determined by the ~~fund-manager~~ BOARD.

40 E. A person is not eligible for benefits under the program if there is
41 any evidence that the cancer that forms the basis for a benefit claim under
42 the program existed before the person's membership in the public safety
43 personnel retirement system.

1 Sec. 10. Section 38-645, Arizona Revised Statutes, is amended to read:
2 38-645. Coverage

3 A. Coverage provided under the program shall provide benefits to
4 eligible persons to pay for expenses that are designated by the ~~fund manager~~
5 BOARD and that are incurred in the treatment of cancer, including treatments
6 by clinics or providers outside of the United States.

7 B. The ~~fund manager~~ BOARD may provide for additional coverage or
8 exclusions under the program based on available monies in the fire fighter
9 and peace officer cancer insurance policy program account.

10 C. Coverage under the fire fighter and peace officer cancer insurance
11 policy program may be canceled, changed or terminated by the ~~fund manager~~
12 BOARD at any time without notice. If the program is terminated, the ~~fund~~
13 ~~manager~~ BOARD shall refund monies in the fire fighter and peace officer
14 cancer insurance policy program account on a pro rata basis to employers,
15 excluding monies held in reserve for benefits as determined by the ~~fund~~
16 ~~manager~~ BOARD.

17 D. If the program is self-insured, benefits are limited to the assets
18 in the fire fighter and peace officer cancer insurance policy program account
19 and those benefits may be reduced or eliminated at any time.

20 Sec. 11. Section 38-651.01, Arizona Revised Statutes, is amended to
21 read:

22 38-651.01. Group health and accident coverage for retired
23 public employees and elected officials and their
24 dependents

25 A. The department of administration ~~shall~~, by rule, SHALL adopt
26 standards to establish group health and accident coverage for former
27 employees who worked for the state of Arizona and who opt ~~upon~~ ON retirement
28 to enroll or continue enrollment in the group health and accident coverage
29 for active employees working for the state of Arizona, or disabled, and
30 receiving either income from a retirement program of this state or long-term
31 disability income benefits pursuant to section 38-651.03 or chapter 5,
32 article 2.1 of this title and their dependents and to establish eligibility
33 for retired or disabled state employees to participate in the coverage. The
34 department of administration may adopt rules ~~which~~ THAT provide that if a
35 retired or disabled insured dies before an insured surviving dependent, the
36 insured surviving dependent is entitled to extended coverage at group rates
37 if the insured surviving dependent elects to continue in the coverage within
38 six months of the retired or disabled insured's death and the insured
39 surviving dependent agrees to pay the cost of the premium for group health
40 and accident insurance. ~~Upon~~ ON notification of the retired or disabled
41 insured's death, the department of administration shall immediately notify an
42 insured surviving dependent of the provisions of this section. The
43 department of administration may enter into agreements with disabled former
44 state employees and their dependents who elect to obtain the coverage
45 provided by this section. The agreements may include provisions for the

1 payment of amounts sufficient to pay for the premium and administrative
2 expense of providing the coverage. The department of administration may
3 adopt rules ~~which~~ THAT provide that ~~upon~~ ON the death of a state employee who
4 at the time of death was eligible for normal retirement pursuant to section
5 38-757 under the Arizona state retirement system, the insured surviving
6 spouse and eligible dependent children are entitled to continue coverage
7 under group rates provided that the deceased insured state employee, spouse
8 and dependent children were insured at the time of the employee's death. The
9 insured surviving spouse shall be charged an amount sufficient to pay the
10 full premium for the coverage.

11 B. The department of administration ~~may~~, by rule, MAY adopt standards
12 to establish group health and accident coverage for former elected officials
13 of this state or its political subdivisions and their dependents and to
14 establish eligibility for former elected officials to participate in the
15 coverage. Qualifications for eligibility shall include that the former
16 elected official has at least five years of credited service in the elected
17 officials' retirement plan pursuant to chapter 5 of this title, had been
18 covered under a group health or group health and accident plan while serving
19 as an elected official and had been serving as an elected official on or
20 after January 1, 1983. The department of administration may adopt rules
21 ~~which~~ THAT provide that ~~upon~~ ON the death of an elected official or insured
22 former elected official, the insured surviving spouse is entitled to coverage
23 at group rates provided that the deceased insured former elected official met
24 or would have met the qualifications for eligibility pursuant to this
25 subsection or that the deceased elected official would have met the
26 qualifications for eligibility had the deceased not been in office at the
27 time of death. Except as provided in subsection J of this section, the
28 insured former elected official or the insured surviving spouse shall be
29 charged amounts ~~which~~ THAT are sufficient to pay for the premium and state
30 administrative expense of providing coverage. Notwithstanding subsection J
31 of this section, the standards shall provide that all or any portion of the
32 former state employees or former elected officials or their dependents shall
33 be grouped with officers and employees of the state and its departments and
34 agencies or their dependents as necessary to obtain health and accident
35 coverage at favorable rates.

36 C. The ARIZONA state retirement system board may enter into agreements
37 with retired and disabled state employee members of the system and plan who
38 elect to obtain the coverage provided pursuant to subsection A of this
39 section. The agreements may include provision for the deduction from the
40 retirement benefits of participants of a retirement program of this state who
41 elect to obtain coverage of amounts sufficient to pay for the premium not
42 covered under retirement benefits and state administrative expense of
43 providing coverage.

44 D. Retired state employee or disabled state employee members of the
45 public safety personnel retirement system, the elected officials' retirement

1 plan, the corrections officer retirement plan or the optional retirement
2 programs authorized pursuant to section 15-1628 who opt ~~upon~~ ON retirement to
3 enroll or continue enrollment in the group health and accident coverage for
4 active employees working for the state of Arizona and their dependents and
5 who are receiving benefits from the public safety personnel retirement
6 system, the elected officials' retirement plan, the corrections officer
7 retirement plan or the optional retirement programs authorized pursuant to
8 section 15-1628 may participate in group health and accident coverage
9 provided pursuant to this section. The department of administration shall
10 adopt rules ~~which~~ THAT are necessary for the implementation of this
11 subsection.

12 E. The ~~fund-manager~~ BOARD OF TRUSTEES of the public safety personnel
13 retirement system may enter into agreements with retired state employee
14 members and their dependents who elect to obtain the coverage provided
15 pursuant to this section. The agreements may include provision for the
16 deduction from the retirement benefits of participants of a retirement
17 program of this state who elect to obtain coverage of amounts sufficient to
18 pay for the premium not covered under retirement benefits and state
19 administrative expense of providing coverage.

20 F. The ~~fund-manager~~ BOARD OF TRUSTEES of the public safety personnel
21 retirement system may enter into agreements with retired judges and retired
22 elected officials and their dependents who elect to obtain the coverage
23 provided pursuant to this section. The agreements may include provision for
24 the deduction from the retirement benefits of participants of a retirement
25 program of this state who elect to obtain coverage of amounts sufficient to
26 pay for the premium not covered under retirement benefits and state
27 administrative expense of providing coverage.

28 G. The ~~fund-manager~~ BOARD OF TRUSTEES of the public safety personnel
29 retirement system may contract with an insurance carrier and adopt standards
30 to establish a group health and accident insurance coverage program for
31 retired members of the public safety personnel retirement system, their
32 dependents and their spouses. Any members or spouses who elect to obtain the
33 group health and accident coverage provided under this subsection shall agree
34 to a deduction from their monthly retirement benefits of an amount sufficient
35 to pay for the premium not covered under retirement benefits and the
36 administrative expense of providing coverage.

37 H. A county board of supervisors may enter into agreements to
38 establish group health and accident coverage for retired or disabled county
39 employees and their dependents who elect to obtain the coverage provided
40 pursuant to section 11-263, subsection B. The agreements may include
41 provision for the deduction from the retirement benefits of participants of a
42 retirement program of this state who elect to obtain the coverage of amounts
43 sufficient to pay for the premium not covered under retirement benefits and
44 the administrative expense of providing for the coverage.

1 I. Nonmedicare eligible retirees who live in this state, who enroll in
2 a qualifying plan under this section and who reside outside the area of a
3 qualifying health maintenance organization shall be offered the option to
4 enroll with a qualified health maintenance organization offered through their
5 provider under the same premiums as if they lived within the area boundaries
6 of the qualified health maintenance organization provided that:

7 1. All medical services are rendered and received at an office
8 designated by the qualifying health maintenance organization or at a facility
9 referred by the health maintenance organization.

10 2. All nonemergency or nonurgent travel, ambulatory and other expenses
11 from the residence area of the retiree to the designated office of the
12 qualifying health maintenance organization or the facility referred by the
13 health maintenance organization are the responsibility of and at the expense
14 of the retiree.

15 3. All emergency or urgent travel, ambulatory and other expenses from
16 the residence area of the retiree to the designated office of the qualifying
17 health maintenance organization or the facility referred by the health
18 maintenance organization shall be paid pursuant to any agreement between the
19 health maintenance organization and the retiree living outside the area of
20 the qualifying health maintenance organization.

21 J. Public funds shall not be expended to pay all or any part of the
22 premium of insurance pursuant to this section except for monies authorized to
23 be paid for any insured from the retirement plan from which the insured is
24 receiving benefits.

25 Sec. 12. Section 38-782, Arizona Revised Statutes, is amended to read:

26 38-782. Group health and accident coverage for retired public
27 employees and elected officials and their dependents

28 A. The board shall establish group health and accident coverage for
29 eligible retired and disabled members and their dependents. Eligible retired
30 and disabled members are those members who are receiving retirement benefits
31 from ASRS or long-term disability benefits pursuant to section 38-651.03 or
32 article 2.1 of this chapter and who elect not to obtain health and accident
33 insurance through their former employer. If an insured retired or disabled
34 member dies before the insured member's dependent beneficiary or an insured
35 surviving dependent, the dependent beneficiary or insured surviving dependent
36 is entitled to coverage at group rates if the dependent beneficiary or
37 surviving dependent elects to continue in the coverage within six months of
38 the insured member's death and the dependent beneficiary or surviving
39 dependent agrees to pay the cost of the premium for group health and accident
40 insurance. On notification of the insured member's death, the board shall
41 immediately notify a dependent beneficiary or an insured surviving dependent
42 of the provisions of this section.

43 B. Retired members of the public safety personnel retirement system,
44 the elected officials' retirement plan, the corrections officer retirement
45 plan or the optional retirement programs authorized pursuant to sections

1 15-1451 and 15-1628 and their dependents who are receiving benefits from the
2 public safety personnel retirement system, the elected officials' retirement
3 plan, the corrections officer retirement plan or the optional retirement
4 programs authorized pursuant to sections 15-1451 and 15-1628 and who are not
5 covered by section 38-651.01 may participate in group health and accident
6 coverage provided pursuant to this section. On the death of an insured
7 member of the public safety personnel retirement system, the elected
8 officials' retirement plan, the corrections officer retirement plan or the
9 optional retirement programs authorized pursuant to sections 15-1451 and
10 15-1628, the insured surviving dependent is entitled to coverage at group
11 rates. Except as provided in subsection H of this section, the surviving
12 dependent shall be charged amounts that are sufficient to pay for the premium
13 and administrative expense of providing the coverage.

14 C. The board may enter into agreements with retired and disabled
15 members of ASRS who elect to obtain the coverage provided pursuant to
16 subsection A of this section. Those agreements may include provision
17 PROVISIONS for the deduction from the retirement benefits of the members who
18 elect to obtain the coverage of amounts sufficient to pay for the premium not
19 covered under retirement benefits and the administrative expense of providing
20 the coverage.

21 D. The ~~fund-manager~~ BOARD OF TRUSTEES of the public safety personnel
22 retirement system may enter into agreements with retired members of the
23 public safety personnel retirement system, the elected officials' retirement
24 plan, the corrections officer retirement plan and their dependents who elect
25 to obtain the coverage provided pursuant to this section. Those agreements
26 may include provisions for the deduction from the retirement benefits of the
27 members who elect to obtain the coverage of amounts sufficient to pay for the
28 premium not covered under their retirement benefits and the administrative
29 expense of providing the coverage.

30 E. The board may enter into agreements with retired members of the
31 optional retirement programs authorized pursuant to sections 15-1451 and
32 15-1628 and their dependents who elect to obtain the coverage provided
33 pursuant to this section. Those agreements may include provisions for the
34 payment of amounts sufficient to pay for the premium and administrative
35 expense of providing the coverage.

36 F. If an insured member receiving long-term disability benefits
37 pursuant to article 2.1 of this chapter becomes ineligible for the long-term
38 disability benefits, the member and the covered dependents of the member may
39 continue to participate in the group health and accident coverage provided
40 pursuant to this section subject to the following conditions:

41 1. Participation in the coverage is limited to twelve months from the
42 date the member ceases eligibility for benefits under article 2.1 of this
43 chapter or the member commences employment, whichever occurs first.

1 2. The member shall pay the full premium cost of the coverage
2 selected, and the member is not eligible for benefits pursuant to section
3 38-783.

4 3. If a member who participates in the coverage dies during the twelve
5 month period provided by this subsection, covered dependents of the member
6 may continue coverage after the death of the member through the end of the
7 twelve month period. Covered dependents of the member who continue coverage
8 pursuant to this paragraph shall pay the full premium cost of the coverage
9 selected and are not eligible for benefits pursuant to section 38-783.

10 G. Retired or disabled members who are not eligible for medicare, who
11 live in this state, who enroll in a qualifying health maintenance
12 organization under this section and who reside outside the area of a
13 qualifying health maintenance organization shall be offered the option of
14 enrolling with a qualified health maintenance organization offered through
15 their provider under the same premiums as if they lived within the area
16 boundaries of the qualified health maintenance organization provided that:

17 1. All medical services are rendered and received at an office
18 designated by the qualifying health maintenance organization or at a facility
19 referred by the health maintenance organization.

20 2. All nonemergency or nonurgent travel, ambulatory and other expenses
21 from the residence area of the member to the designated office of the
22 qualifying health maintenance organization or the facility referred by the
23 health maintenance organization are the responsibility of and at the expense
24 of the member.

25 3. All emergency or urgent travel, ambulatory and other expenses from
26 the residence area of the member to the designated office of the qualifying
27 health maintenance organization or the facility referred by the health
28 maintenance organization shall be paid pursuant to any agreement between the
29 health maintenance organization and the member living outside the area of the
30 qualifying health maintenance organization.

31 H. Public monies shall not be spent to pay all or any part of the
32 insurance premium pursuant to this section except for monies authorized to be
33 paid for any insured from the retirement plan from which the insured is
34 receiving benefits.

35 Sec. 13. Section 38-801, Arizona Revised Statutes, is amended to read:

36 38-801. Definitions

37 In this article, unless the context otherwise requires:

38 1. "Accumulated contributions" means the sum of all member
39 contributions deducted from the member's salary pursuant to section 38-810,
40 subsection A plus the amount transferred to the fund on behalf of the member
41 plus the amount deposited in the fund pursuant to section 38-816.

42 2. "Actuarial equivalent" means equality in present value of the
43 aggregate amounts expected to be received under two different forms of
44 payment, based on mortality and interest assumptions adopted by the fund
45 manager BOARD.

1 3. "Alternate payee" means the spouse or former spouse of a
2 participant as designated in a domestic relations order.

3 4. "Alternate payee's portion" means benefits that are payable to an
4 alternate payee pursuant to a plan approved domestic relations order.

5 5. "Average yearly salary" means the result obtained by dividing the
6 total salary paid to an employee during a considered period by the number of
7 years, including fractional years, in which the salary was received. The
8 considered period shall be the three consecutive years within the last ten
9 completed years of credited service as an elected official that yield the
10 highest average. If an employee does not have three consecutive years of
11 credited service as an elected official, the considered period is the
12 employee's last consecutive period of employment with a plan employer
13 immediately before retirement.

14 6. "BOARD" MEANS THE BOARD OF TRUSTEES OF THE SYSTEM.

15 ~~6.~~ 7. "Credited service" means the number of whole and fractional
16 years of a member's service as an elected official after the elected
17 official's effective date of participation for which member and employer
18 contributions are on deposit with the fund, plus credited service transferred
19 to the plan from another retirement system or plan for public employees of
20 this state, plus service as an elected official before the elected official's
21 effective date of participation that is being funded pursuant to a joinder
22 agreement pursuant to section 38-810, subsection C and section 38-815 or
23 service that was redeemed pursuant to section 38-816.

24 ~~7.~~ 8. "Cure period" means the ninety-day period in which a
25 participant or alternate payee may submit an amended domestic relations order
26 and request a determination, calculated from the time the plan issues a
27 determination finding that a previously submitted domestic relations order
28 did not qualify as a plan approved domestic relations order.

29 ~~8.~~ 9. "Determination" means a written document that indicates to a
30 participant and alternate payee whether a domestic relations order qualifies
31 as a plan approved domestic relations order.

32 ~~9.~~ 10. "Determination period" means the ninety-day period in which
33 the plan must review a domestic relations order that is submitted by a
34 participant or alternate payee to determine whether the domestic relations
35 order qualifies as a plan approved domestic relations order, calculated from
36 the time the plan mails a notice of receipt to the participant and alternate
37 payee.

38 ~~10.~~ 11. "Direct rollover" means a payment by the plan to an eligible
39 retirement plan that is specified by the distributee.

40 ~~11.~~ 12. "Distributee" means a member, a member's surviving spouse or a
41 member's spouse or former spouse who is the alternate payee under a plan
42 approved domestic relations order.

43 ~~12.~~ 13. "Domestic relations order" means an order of a court of this
44 state that is made pursuant to the domestic relations laws of this state and
45 that creates or recognizes the existence of an alternate payee's right to, or

1 assigns to an alternate payee the right to, receive a portion of the benefits
2 payable to a participant.

3 ~~13.~~ 14. "Effective date of participation" means August 7, 1985, except
4 with respect to employers and their elected officials whose contributions to
5 the plan commence after that date, in which case the effective date of their
6 participation in the plan is specified in the applicable joinder agreement.

7 ~~14.~~ 15. "Elected official" means:

8 (a) Every elected official of this state.

9 (b) Every elected official of each county of this state.

10 (c) Every justice of the supreme court, every judge of the court of
11 appeals, every judge of the superior court and every full-time superior court
12 commissioner, except full-time superior court commissioners who failed to
13 make a timely election of membership under the judges' retirement plan,
14 repealed on August 7, 1985.

15 (d) The administrator of the ~~fund-manager~~ BOARD if the administrator
16 is a natural person.

17 (e) Each elected official of an incorporated city or town whose
18 employer has executed a proper joinder agreement for coverage of its elected
19 officials.

20 ~~15.~~ 16. "Eligible retirement plan" means any of the following that
21 accepts a distributee's eligible rollover distribution:

22 (a) An individual retirement account described in section 408(a) of
23 the internal revenue code.

24 (b) An individual retirement annuity described in section 408(b) of
25 the internal revenue code.

26 (c) An annuity plan described in section 403(a) of the internal
27 revenue code.

28 (d) A qualified trust described in section 401(a) of the internal
29 revenue code.

30 (e) An annuity contract described in section 403(b) of the internal
31 revenue code.

32 (f) An eligible deferred compensation plan described in section 457(b)
33 of the internal revenue code that is maintained by a state, a political
34 subdivision of a state or any agency or instrumentality of a state or a
35 political subdivision of a state and that agrees to separately account for
36 amounts transferred into the eligible deferred compensation plan from this
37 plan.

38 ~~16.~~ 17. "Eligible rollover distribution" means a payment to a
39 distributee, but does not include any of the following:

40 (a) Any distribution that is one of a series of substantially equal
41 periodic payments made not less frequently than annually for the life or life
42 expectancy of the member or the joint lives or joint life expectancies of the
43 member and the member's beneficiary or for a specified period of ten years or
44 more.

1 (b) Any distribution to the extent the distribution is required under
2 section 401(a)(9) of the internal revenue code.

3 (c) The portion of any distribution that is not includable in gross
4 income.

5 ~~17.~~ 18. "Fund" means the elected officials' retirement plan fund.

6 ~~18. "Fund manager" means the fund manager of the system.~~

7 19. "Notice of receipt" means a written document that is issued by the
8 plan to a participant and alternate payee and that states that the plan has
9 received a domestic relations order and a request for a determination that
10 the domestic relations order is a plan approved domestic relations order.

11 20. "Participant" means a member who is subject to a domestic relations
12 order.

13 21. "Participant's portion" means benefits that are payable to a
14 participant pursuant to a plan approved domestic relations order.

15 22. "Pension" means a series of monthly payments to a person who is
16 entitled to receive benefits under the plan.

17 23. "Personal representative" means the personal representative of a
18 deceased alternate payee.

19 24. "Plan" means the elected officials' retirement plan.

20 25. "Plan approved domestic relations order" means a domestic relations
21 order that the plan approves as meeting all the requirements for a plan
22 approved domestic relations order as otherwise prescribed in this article.

23 26. "Retired member" means a person who is being paid a pension based
24 on the person's credited service as a member of the plan.

25 27. "Segregated funds" means the amount of benefits that would
26 currently be payable to an alternate payee pursuant to a domestic relations
27 order under review by the plan, or a domestic relations order submitted to
28 the plan that failed to qualify as a plan approved domestic relations order,
29 if the domestic relations order were determined to be a plan approved
30 domestic relations order.

31 28. "System" means the public safety personnel retirement system.

32 Sec. 14. Section 38-802, Arizona Revised Statutes, is amended to read:

33 38-802. Elected officials' retirement plan and fund;

34 administration

35 A. The elected officials' retirement plan is established.

36 B. The elected officials' retirement plan fund is established. The
37 fund shall be made up of the assets of the judges' retirement plan and the
38 elected officials' retirement plan terminated on August 7, 1985 plus the
39 assets generated by this plan and the assets of the administrator of the fund
40 manager BOARD in the state employees retirement plan on the date of transfer
41 plus any assets transferred to the fund in accordance with a joinder
42 agreement. The fund shall be used exclusively for payment of benefits to
43 retired members or their beneficiaries as provided in this article and for
44 payment of the administration, operation and investment expenses of the plan.

1 In no case shall any portion of the fund revert or otherwise be paid to an
2 employer.

3 C. The ~~fund-manager~~ BOARD shall administer, manage and operate the
4 plan and fund.

5 Sec. 15. Section 38-803, Arizona Revised Statutes, is amended to read:

6 38-803. Powers and duties of the board

7 A. The ~~fund-manager~~ BOARD, in the administration, management and
8 operation of the plan and fund, shall:

9 1. Account for the operation, administration and investment expenses
10 and allocate them against investment income.

11 2. Contract on a fee basis with an actuary to make an actuarial
12 valuation of the plan based on the valuation method and valuation assumptions
13 recommended by the actuary and approved by the ~~fund-manager~~ BOARD. The
14 actuary shall be a member of the American academy of actuaries.

15 3. Contract on a fee basis with an independent auditing firm to make
16 an annual audit of the accounting records of the fund and file a copy of the
17 audit with the auditor general.

18 4. Invest the monies in the fund as provided in article 4 of this
19 chapter.

20 5. Within a period of six months after the close of each fiscal year,
21 submit a detailed report of the operation and the investment performance of
22 the plan to the governor, the legislature and the members of the plan.

23 6. By November 1 of each year provide a preliminary report and by
24 December 15 of each year provide a final report to the governor, the speaker
25 of the house of representatives and the president of the senate on the
26 contribution rate for the ensuing fiscal year.

27 B. The ~~fund-manager~~ BOARD, in the administration, management and
28 operation of the plan and fund, may:

29 1. Employ services as it deems necessary.

30 2. Either keep invested monies separate or commingle invested monies
31 as it deems appropriate.

32 3. Delegate authority as it deems necessary and prudent to the
33 administrator employed pursuant to section 38-848, subsection K, paragraph 6.

34 4. Do all acts, whether expressly authorized, which may be deemed
35 necessary or proper for the protection of the fund.

36 Sec. 16. Section 38-803.01, Arizona Revised Statutes, is amended to
37 read:

38 38-803.01. Qualified governmental excess benefit arrangement;
39 definitions

40 A. The ~~fund-manager~~ BOARD may establish a qualified governmental
41 excess benefit arrangement for the sole purpose of enabling the ~~fund-manager~~
42 BOARD to continue to apply the same formula for determining benefits payable
43 to all employees covered by the plan whose benefits under the plan are
44 limited by section 415 of the internal revenue code.

1 B. The ~~fund-manager~~ BOARD shall administer the qualified governmental
2 excess benefit arrangement. The ~~fund-manager~~ BOARD has full discretionary
3 fiduciary authority to determine all questions arising in connection with the
4 arrangement, including its interpretation and any factual questions arising
5 under the arrangement.

6 C. All members and retired members of the plan are eligible to
7 participate in the qualified governmental excess benefit arrangement if their
8 benefits under the plan would exceed the limitations imposed by section 415
9 of the internal revenue code.

10 D. On or after the effective date of the qualified governmental excess
11 benefit arrangement, the employer shall pay to each eligible member of the
12 plan who retires on or after the effective date and to each retired member
13 who retired before the effective date and that member's beneficiary, if
14 required, a supplemental pension benefit equal to the amount by which the
15 benefit that would have been payable under the plan, without regard to any
16 provisions in the plan incorporating the limitation on benefits imposed by
17 section 415 of the internal revenue code, exceeds the benefit actually
18 payable taking into account the limitation imposed on the plan by section 415
19 of the internal revenue code. The ~~fund-manager~~ BOARD shall compute and pay
20 the supplemental pension benefits under the same terms and conditions and to
21 the same person as the benefits payable to or on account of a retired member
22 under the plan.

23 E. The employer shall not fund benefits payable under the qualified
24 governmental excess benefit arrangement. The employer shall pay benefits
25 payable under the qualified governmental excess benefit arrangement out of
26 the general assets of the employer. For administrative purposes, the
27 employer may establish a grantor trust for the benefit of eligible members.
28 The employer shall be treated as grantor of the trust for purposes of section
29 677 of the internal revenue code. The rights of any person to receive
30 benefits under the qualified governmental excess benefit arrangement are
31 limited to those of a general creditor of the employer.

32 F. The terms and conditions contained in the plan, other than those
33 relating to the benefit limitation imposed by section 415 of the internal
34 revenue code, apply, unless the terms and conditions are inconsistent with
35 the purpose of the qualified governmental excess benefit arrangement.

36 G. For the purposes of this section:

37 1. "Internal revenue code" has the same meaning prescribed in section
38 42-1001.

39 2. "Qualified governmental excess benefit arrangement" means a portion
40 of the plan if:

41 (a) The portion is maintained solely to provide to members of the plan
42 that part of a member's annual benefit that is otherwise payable under the
43 terms of the plan and that exceeds the limitations imposed by section 415 of
44 the internal revenue code.

1 (b) Under that portion, a direct or indirect election to defer
2 compensation is not provided at any time to the member.

3 (c) Excess benefits are not paid from a trust that is a part of the
4 plan unless the trust is maintained solely for the purpose of providing
5 excess benefits.

6 Sec. 17. Section 38-804, Arizona Revised Statutes, is amended to read:

7 38-804. Membership; termination; reinstatement of credited
8 service

9 A. All elected officials are members of the plan, except that a state
10 elected official who is subject to term limits may elect not to participate
11 in the plan. The state elected official who is subject to term limits shall
12 make the election in writing and file the election with the ~~fund manager~~
13 BOARD within thirty days after the state elected official assumes office.
14 The election is effective on the first day of the state elected official's
15 eligibility for that term of office. The election not to participate is
16 specific for that term of office. If a state elected official who is subject
17 to term limits fails to make an election as provided in this subsection, the
18 state elected official is deemed to have elected to participate in the plan.
19 The election not to participate in the plan is irrevocable and constitutes a
20 waiver of all benefits provided by the plan for the state elected official's
21 entire term, except for any benefits accrued by the state elected official in
22 the plan for periods of participation prior to being elected to an office
23 subject to term limits or any benefits expressly provided by law. The state
24 elected official who elects not to participate in the plan shall participate
25 in the Arizona state retirement system unless the state elected official
26 makes an irrevocable election not to participate in the Arizona state
27 retirement system as provided in section 38-727.

28 B. If a member ceases to hold office for any reason other than death
29 or retirement, within twenty days after filing a completed application with
30 the ~~fund manager~~ BOARD, the member is entitled to receive the following
31 amounts, less any benefit payments the member has received and any amount the
32 member may owe to the plan:

33 1. If the member has less than five years of credited service with the
34 plan, the member may withdraw the member's accumulated contributions from the
35 plan.

36 2. If the member has five or more years of credited service with the
37 plan, the member may withdraw the member's accumulated contributions plus an
38 amount equal to the amount determined as follows:

39 (a) 5.0 to 5.9 years of credited service, twenty-five per cent of all
40 member contributions deducted from the member's salary pursuant to section
41 38-810, subsection A.

42 (b) 6.0 to 6.9 years of credited service, forty per cent of all member
43 contributions deducted from the member's salary pursuant to section 38-810,
44 subsection A.

1 (c) 7.0 to 7.9 years of credited service, fifty-five per cent of all
2 member contributions deducted from the member's salary pursuant to section
3 38-810, subsection A.

4 (d) 8.0 to 8.9 years of credited service, seventy per cent of all
5 member contributions deducted from the member's salary pursuant to section
6 38-810, subsection A.

7 (e) 9.0 to 9.9 years of credited service, eighty-five per cent of all
8 member contributions deducted from the member's salary pursuant to section
9 38-810, subsection A.

10 (f) 10.0 or more years of credited service, one hundred per cent of
11 all member contributions deducted from the member's salary pursuant to
12 section 38-810, subsection A.

13 C. If a member has more than ten years of credited service with the
14 plan, leaves the monies prescribed in subsection B of this section on account
15 with the plan for more than thirty days after termination of employment and
16 after that time period requests a refund of those monies, the member is
17 entitled to receive the amount prescribed in subsection B of this section
18 plus interest at a rate determined by the ~~fund-manager~~ BOARD for each year
19 computed from and after the member's termination of employment.

20 D. If the amount prescribed in subsection B or C of this section
21 includes monies that are an eligible rollover distribution and the member
22 elects to have the distribution paid directly to an eligible retirement plan
23 or individual retirement account or annuity and specifies the eligible
24 retirement plan or individual retirement account or annuity to which the
25 distribution is to be paid, the distribution shall be made in the form of a
26 direct trustee-to-trustee transfer to the specified eligible retirement plan.
27 The distribution shall be made in the form and at the time prescribed by the
28 ~~fund-manager~~ BOARD. A member who receives the amount prescribed in
29 subsection B or C of this section from the plan or who elects a transfer
30 pursuant to this subsection forfeits the member's credited service, and all
31 rights to benefits under the plan and membership in the plan terminate.

32 E. If an elected official who has terminated the member's membership
33 in the plan pursuant to subsection B of this section is subsequently elected
34 or otherwise becomes eligible for membership in the plan pursuant to
35 subsection A of this section, credited service only accrues from the date of
36 the member's most recent eligibility as an elected official.

37 F. Notwithstanding subsection E of this section, if an elected
38 official files a written election form with the ~~fund-manager~~ BOARD within
39 ninety days after the day of the member's reemployment as an elected official
40 and repays the amount previously withdrawn pursuant to subsection B or C of
41 this section within one year after the date of the member's reemployment as
42 an elected official, with interest on that amount at the rate of nine per
43 cent for each year, compounded each year from the date of withdrawal to the
44 date of repayment, credited service shall be restored. Credited service
45 shall not be restored until complete repayment is made to the fund.

1 G. If a retired member subsequently becomes an elected official,
2 contributions shall not be made by the retired member or the retired member's
3 employer and credited service shall not accrue while the retired member is
4 holding office.

5 H. In addition to ~~the provisions of~~ subsection G of this section, if a
6 retired member subsequently becomes, by reason of election or reelection, an
7 elected official of the same office from which the member retired within a
8 time period following the member's retirement that is less than one full term
9 for that office, the member shall not receive a pension. If the elected
10 official ceases to hold the same office, the elected official is entitled to
11 receive the same pension the elected official was receiving when the elected
12 official's pension was discontinued pursuant to this subsection. Nothing in
13 this subsection prohibits a retired judge called by the supreme court to
14 active duties of a judge pursuant to section 38-813 from receiving retirement
15 benefits.

16 Sec. 18. Section 38-806, Arizona Revised Statutes, is amended to read:

17 38-806. Disability retirement pensions

18 A. A member who becomes permanently mentally or physically
19 incapacitated for the purpose of performing the duties of the member's office
20 may receive disability retirement benefits if the ~~fund-manager~~ BOARD OF
21 TRUSTEES finds that all of the following apply:

22 1. The member submits either personally or by a guardian an affidavit
23 as to the nature of the member's incapacity.

24 2. The member is medically examined by a board of three physicians,
25 one designated by the administrator of the fund, one designated by the member
26 or the member's guardian and one designated by the governor.

27 3. A majority of the board of physicians certifies to the ~~fund-manager~~
28 BOARD OF TRUSTEES that:

29 (a) The member is mentally or physically incapacitated for the purpose
30 of performing the duties of the member's office.

31 (b) The member's incapacity occurred during the member's term of
32 office and is expected to be of an indefinite duration.

33 (c) The member should be retired.

34 B. On retirement by reason of disability under this section, a retired
35 member shall receive a pension computed pursuant to section 38-808,
36 subsection B, paragraph 2 until the member's death or until the member's
37 pension is suspended, revoked or discontinued pursuant to this section.

38 C. If the ~~fund-manager~~ BOARD OF TRUSTEES has reason to believe that a
39 member, retired pursuant to this section but not yet eligible for normal
40 retirement, may no longer be mentally or physically incapacitated from
41 performing the duties of the public office from which the member retired, the
42 ~~fund-manager~~ BOARD OF TRUSTEES may require such retired member to be
43 medically examined. The examination shall be conducted by a board of three
44 physicians, one designated by the administrator of the fund, one designated

1 by the retired member or the member's guardian and one designated by the
2 governor.

3 D. The ~~fund-manager~~ BOARD OF TRUSTEES shall discontinue pension
4 payments to a member retired pursuant to this section, if the board of
5 physicians certifies that the member is mentally and physically capable of
6 performing the duties of the public office from which the member retired.

7 E. If the retired member refuses to submit to the medical examination,
8 the administrator of the fund may suspend payment of the member's pension
9 until the member submits to the medical examination. If the retired member
10 refuses for one year or more to submit to medical examination, the ~~fund~~
11 ~~manager~~ BOARD OF TRUSTEES shall revoke the pension of a member retired under
12 this section.

13 Sec. 19. Section 38-807, Arizona Revised Statutes, is amended to read:

14 38-807. Survivor pensions

15 A. The surviving spouse of a retired member shall be paid a pension
16 which terminates on the death of the surviving spouse if the retired member
17 was married to the surviving spouse for at least two years. The surviving
18 spouse's pension under this subsection is three-fourths of the amount the
19 retired member was receiving at the time of the member's death.

20 B. The surviving spouse of an active or inactive member who dies
21 before retirement shall be paid a pension which terminates on the death of
22 the surviving spouse if the active or inactive member was married to the
23 surviving spouse for at least two years.

24 C. The surviving spouse's pension under subsection B of this section
25 is three-fourths of the amount of pension computed according to section
26 38-808, subsection B, paragraph 2 under the assumption that the member had
27 retired for reason of disability immediately before death.

28 D. If the deceased retired or active or inactive member does not have
29 an eligible surviving spouse or the pension of the eligible surviving spouse
30 is terminated, each surviving unmarried child of the deceased retired or
31 active or inactive member shall be paid a pension which terminates on
32 adoption or the attainment of age eighteen unless the child is a full-time
33 student under the age of twenty-three or the child is under a disability
34 which began before the child attained the age of twenty-three. The amount of
35 the pension of each surviving minor child of a deceased retired or active or
36 inactive member is an equal share of the amount of the surviving spouse's
37 pension. The surviving minor child's pension shall be paid to the person who
38 is the legally appointed guardian or custodian of the eligible child.

39 E. If a member dies and no pension is payable on account of the
40 member's death, the deceased member's accumulated contributions shall be paid
41 to the person or persons designated by the deceased member in writing and
42 filed with the ~~fund-manager~~ BOARD. If the designated person or persons do
43 not survive the deceased member, the accumulated contributions shall be paid
44 to the estate of the deceased member.

1 Sec. 20. Section 38-808, Arizona Revised Statutes, is amended to read:
2 38-808. Pension payments; computation of amounts; termination

3 A. Plan retirement commences on the first day of the month following
4 the date of the member's retirement or death. Pension payments shall be
5 received on or about the first day of the month next following the member's
6 plan retirement. The last pension payment shall be made as of the last day
7 of the month in which the death of the retired member or the surviving spouse
8 or minor children occurs. Pension payments shall not be made in advance.

9 B. The monthly pension shall be equal to one-twelfth of the following
10 amount:

11 1. Four per cent of the member's average yearly salary multiplied by
12 the member's credited service, not to exceed eighty per cent of the member's
13 average yearly salary. This amount shall be reduced if the member takes
14 early retirement pursuant to section 38-805, subsection B. The amount of
15 reduction is three-twelfths of one per cent for each month the retired
16 member's early retirement age precedes the member's normal retirement age
17 pursuant to section 38-805, subsection A, except that the reduction shall not
18 be more than thirty per cent.

19 2. A member who meets the requirements for a disability retirement
20 pension shall receive a disability pension equal to four per cent of the
21 member's average yearly salary multiplied by twenty years of credited service
22 if the member has ten or more years of credited service, four per cent of the
23 member's average yearly salary multiplied by ten years of credited service if
24 the member has five or more years of credited service but fewer than ten
25 years of credited service or four per cent of the member's average yearly
26 salary multiplied by five years of credited service if the member has fewer
27 than five years of credited service.

28 C. The plan shall make payments pursuant to section 401(a)(9) of the
29 internal revenue code and the regulations that are issued under that section.
30 Notwithstanding any other provision of this plan, beginning January 1, 1987
31 payment of benefits to a member shall commence no later than April 1 of the
32 calendar year following the later of:

33 1. The calendar year in which the member attains seventy and one-half
34 years of age.

35 2. The date the member terminates employment.

36 D. If all pension payments terminate before an amount equal to the
37 member's accumulated contributions has been paid, the difference between the
38 member's accumulated contributions and the aggregate amount of pension
39 payments shall be paid to the person or persons and in such shares as
40 designated by the retired member in writing and filed with the ~~fund manager~~
41 BOARD. If the designated person or persons do not survive the retired
42 member, the difference shall be paid to the estate of the retired member.

1 Sec. 21. Section 38-809, Arizona Revised Statutes, is amended to read:

2 38-809. Correction of pension payment errors; assignments
3 prohibited; liability

4 A. If the plan has made pension payments based on incorrect
5 information and a person or an estate has been paid more or less than the
6 person or estate would have been paid if the information had been correct,
7 the ~~fund-manager~~ BOARD shall adjust future payments so that the proper amount
8 is paid. The adjustment may be made in such a manner that the equivalent
9 actuarial present value of the benefit to which the person or estate is
10 correctly entitled is paid.

11 B. Notwithstanding any other statute, benefits, member contributions
12 or court fees including interest earnings and all other credits payable under
13 the plan are not subject in any manner to anticipation, alienation, sale,
14 transfer, assignment, pledge, encumbrance, charge, garnishment, execution or
15 levy of any kind, either voluntary or involuntary, before actually being
16 received by the person entitled to the benefit, contribution, earning or
17 credit under the terms of the plan, and any attempt to dispose of any right
18 under the terms of the plan as proscribed in this subsection is void. The
19 fund is not liable for or subject to the debts, contracts, liabilities,
20 enlargements or torts of any person entitled to a benefit, contribution,
21 earning or credit under the terms of the plan.

22 C. Nothing in this section exempts employee benefits of any kind from
23 a writ of attachment, a writ of execution, a writ of garnishment and orders
24 of assignment issued by a court of record as the result of a judgment for
25 arrearages of child support or for child support debt.

26 D. A person who defrauds the plan or who takes, converts, steals or
27 embezzles monies owned by or from the plan and who fails or refuses to return
28 the monies to the plan on the ~~fund-manager's~~ BOARD'S written request is
29 subject to a civil suit by the plan in the superior court of IN Maricopa
30 county. On entry of an order finding the person has defrauded the plan or
31 taken, converted, stolen or embezzled monies owned by or from the plan, the
32 court shall enter an order against that person and for the plan awarding the
33 plan all of its costs and expenses of any kind, including attorney fees, that
34 were necessary to successfully prosecute the action. The court shall also
35 grant the plan a judicial lien on all of the nonexempt property of the person
36 against whom judgment is entered pursuant to this subsection in an amount
37 equal to all amounts awarded to the plan, plus interest at the rate
38 prescribed by section 44-1201, subsection A, until all amounts owed are paid
39 to the plan.

40 E. Notwithstanding any other provision of this article, the ~~fund~~
41 ~~manager~~ BOARD may offset against any benefits otherwise payable by the plan
42 to an active or retired member or survivor any court ordered amounts awarded
43 to the ~~fund-manager~~ BOARD and plan and assessed against the member or
44 survivor.

1 Sec. 22. Section 38-810, Arizona Revised Statutes, is amended to read:

2 38-810. Contributions

3 A. Each member shall contribute to the fund an amount equal to seven
4 per cent of the member's gross salary. Contributions of members shall be
5 made by payroll deductions. Every member is deemed to consent to these
6 deductions. Payment of a member's compensation, less these payroll
7 deductions, constitutes a full and complete discharge and satisfaction of all
8 claims and demands by the member relating to remuneration for the member's
9 services rendered during the period covered by the payment, except with
10 respect to the benefits provided under the plan.

11 B. The ~~fund-manager's~~ BOARD'S office shall be credited monthly with
12 monies collected pursuant to section 12-119.01, subsection B, paragraph 2,
13 section 12-120.31, subsection D, paragraph 2, section 12-284.03, subsection
14 A, paragraph 6, section 22-281, subsection C, paragraph 3 and section 41-178.
15 The monies credited to the fund pursuant to this subsection shall be
16 deposited in the fund on a monthly basis, and there shall be a complete
17 accounting of the determination of these monies deposited in the fund.

18 C. As determined by actuarial valuations performed by the plan's
19 actuary, each employer shall make level per cent compensation contributions
20 sufficient under the actuarial valuation to meet both the normal cost plus
21 the actuarially determined amount required to amortize the unfunded accrued
22 liability over, beginning July 1, 2005, a rolling period of at least twenty
23 and not more than thirty years that is established by the ~~fund-manager~~ BOARD
24 taking into account the recommendation of the plan's actuary, except that,
25 beginning with fiscal year 2006-2007, the employer contribution rate shall
26 not be less than ten per cent of salary. The monies deposited in the fund
27 pursuant to subsection B of this section shall be used to reduce the
28 contributions required of state and county employers only. Employers that
29 entered the system PLAN under a joinder agreement shall also contribute an
30 amount equal to the unfunded accrued liability for that employer. The
31 unfunded liability for each new employer shall be actuarially determined by
32 the plan's actuary as of the effective date of participation of each employer
33 and shall be payable on the effective date of participation. The minimum
34 employer contribution that is paid and that is in excess of the normal cost
35 plus the actuarially determined amount required to amortize the unfunded
36 accrued liability as calculated pursuant to this subsection shall be used to
37 reduce future employer contribution increases and shall not be used to pay
38 for an increase in benefits that are otherwise payable to members. The ~~fund~~
39 ~~manager~~ BOARD shall separately account for these monies in the fund. After
40 the close of any fiscal year, if the plan's actuary determines that the
41 actuarial valuation of the fund contains excess valuation assets and is more
42 than one hundred per cent funded, the ~~fund-manager~~ BOARD shall account for
43 fifty per cent of the excess valuation assets in a stabilization reserve
44 account. After the close of any fiscal year, if the plan's actuary
45 determines that the actuarial valuation of the fund has a valuation asset

1 deficiency and an unfunded actuarial accrued liability, the ~~fund-manager~~
2 BOARD shall use any valuation assets in the stabilization reserve account, to
3 the extent available, to limit the decline in the fund's funding ratio to not
4 more than two per cent.

5 D. The department of administration and the treasurer of each county
6 and participating city and town shall transfer to the ~~fund-manager~~ BOARD the
7 contributions provided for in subsections A and C of this section within ten
8 working days after each payroll date. The state, county treasurers and
9 clerks of the superior court shall transfer the monies credited under
10 subsection B of this section to the ~~fund-manager~~ BOARD on or before the
11 fifteenth day of each calendar month that follows the month in which the
12 court fees were collected. Contributions and monies credited under
13 subsection B of this section and transferred after these dates shall include
14 a penalty equal to ten per cent a year, compounded annually, for each day
15 that the contributions or monies credited under subsection B of this section
16 are late. Delinquent payments due under this subsection, together with
17 interest charges as provided in this subsection and court costs, may be
18 recovered by action in a court of competent jurisdiction against the person
19 or persons responsible for the payments or, at the request of the ~~fund~~
20 ~~manager~~ BOARD, may be deducted from any other monies, including excise
21 revenue taxes, payable to a political subdivision by any department or agency
22 of this state. If requested by the ~~fund-manager~~ BOARD, the state, county
23 treasurers or clerks of the superior court shall transfer the monies credited
24 under subsection B of this section, in an amount determined by the ~~fund~~
25 ~~manager~~ BOARD, directly to the qualified governmental excess benefit
26 arrangement established pursuant to section 38-803.01.

27 E. The employer shall pay the member contributions required of members
28 on account of compensation earned after August 7, 1985. The paid
29 contributions shall be treated as employer contributions for the purpose of
30 determining tax treatment under the United States internal revenue code. The
31 effective date of the employer payment shall not be before the date the
32 retirement plan has received notification from the United States internal
33 revenue service that pursuant to section 414(h) of the United States internal
34 revenue code the member contributions paid will not be included in gross
35 income for income tax purposes until the paid contributions are distributed
36 by refund or pension payments. The employer shall pay the member
37 contributions from monies established and available in the retirement
38 deduction account, which monies would otherwise have been designated as
39 member contributions and paid to the retirement plan. Member contributions
40 paid pursuant to this subsection shall be treated for all other purposes, in
41 the same manner and to the same extent, as member contributions made before
42 August 7, 1985.

1 Sec. 23. Section 38-810.01, Arizona Revised Statutes, is amended to
2 read:

3 38-810.01. Internal revenue code qualification

4 The legislature intends that the plan is a qualified pension plan under
5 section 401 of the internal revenue code, as amended, or successor provisions
6 of law, and that the trust is exempt from taxation under section 501 of the
7 internal revenue code, as amended. The assets of the fund are held in trust
8 for the exclusive benefit of the members and beneficiaries of the plan. The
9 ~~fund manager~~ BOARD may adopt such additional provisions to the plan as are
10 necessary to fulfill this intent.

11 Sec. 24. Section 38-810.03, Arizona Revised Statutes, is amended to
12 read:

13 38-810.03. Compensation limitation; adjustments

14 A. The annual compensation of each member taken into account for
15 purposes of the plan shall not exceed the following:

16 1. Beginning January 1, 1996 through December 31, 2001, one hundred
17 fifty thousand dollars.

18 2. Beginning January 1, 2002, two hundred thousand dollars.

19 B. If compensation under the plan is determined for a period of time
20 that contains fewer than twelve calendar months, the compensation limit for
21 that period of time is equal to the dollar limit for the calendar year during
22 which the period of time begins, multiplied by the fraction in which the
23 numerator is the number of full months in that period of time and the
24 denominator is twelve.

25 C. The ~~fund manager~~ BOARD shall adjust the annual compensation limits
26 under this section at the same time and in the same manner as adjusted by the
27 United States secretary of the treasury under section 401(a)(17)(B) of the
28 internal revenue code. The adjustment under this subsection for a calendar
29 year applies to annual compensation for the plan year that begins with or
30 within the calendar year.

31 Sec. 25. Section 38-814, Arizona Revised Statutes, is amended to read:

32 38-814. Termination of plan

33 A. If the plan terminates, each member's accrued benefits to the date
34 of termination become one hundred per cent nonforfeitable to the extent
35 funded. After provision is made for all expenses of the plan, including
36 expenses of liquidation, the assets of the plan shall be allocated by the
37 payment or provision for the payment of benefits in the following order of
38 preference:

39 1. To pay each elected official and nonretired former elected official
40 an amount equal to his accumulated contributions.

41 2. To continue to pay pensions to retired members or their
42 beneficiaries.

43 3. To provide for potential rights of elected officials and former
44 elected officials on an equitable and nondiscriminatory basis according to
45 generally accepted actuarial principles.

1 4. To pay any excess to this state.

2 B. The allocations in subsection A may be implemented through the
3 existing trust, a new trust instrument for that purpose or the purchase by
4 the ~~fund-manager~~ BOARD of insurance company contracts, or by a combination of
5 these methods. An elected official has no rights or claims on the plan or
6 this state beyond the capacity of the assets held by the ~~fund-manager~~ BOARD
7 to provide benefits in accordance with subsection A.

8 C. If the allocations produce a pension of less than twenty-five
9 dollars per month for any person, the ~~fund-manager~~ BOARD may pay a lump sum
10 of actuarial equivalent value in lieu of the pension.

11 Sec. 26. Section 38-815, Arizona Revised Statutes, is amended to read:
12 38-815. Joinder agreement

13 A. Elected officials of an incorporated city or town may participate
14 in the plan if the governing body of the city or town enters into a joinder
15 agreement with the ~~fund-manager~~ BOARD on behalf of its elected officials and
16 the employer unconditionally accepts the provisions of the plan and binds its
17 elected officials thereto. All elected officials shall be designated for
18 membership unless written consent to the contrary is obtained from the ~~fund~~
19 ~~manager~~ BOARD. A member shall be qualified for participation in order to
20 obtain written consent to the contrary from the ~~fund-manager~~ BOARD.

21 B. The effective date of participation shall be specifically
22 stipulated in the joinder agreement.

23 C. Any city or town ~~which~~ THAT is considering participation in the
24 plan shall request a preliminary actuarial survey to determine the estimated
25 cost of participation, the benefits to be derived and such other information
26 as may be deemed appropriate. The cost of such survey shall be paid by the
27 city or town requesting it.

28 D. All assets under any existing public employee defined benefit
29 retirement program, to the extent attributable to the city's or town's
30 elected officials, shall be transferred from the program to this fund no
31 later than sixty days after the city's or town's effective date of
32 participation. That portion of the transferred assets ~~which~~ THAT is
33 attributable to the elected official's contributions, including interest
34 credits thereon, shall be properly allocated to each affected elected
35 official of the city or town and credited to the elected official's
36 accumulated contributions, in accordance with a schedule furnished by the
37 city or town to the ~~fund-manager~~ BOARD.

38 Sec. 27. Section 38-816, Arizona Revised Statutes, is amended to read:
39 38-816. Redemption of prior service

40 A. Any present active elected official may elect to redeem any part of
41 the following prior service or employment by paying into the fund the amounts
42 required under subsection B of this section if the prior service or
43 employment is not on account with any other retirement system or plan:

44 1. Prior service in this state as an elected official with an employer
45 now covered by the plan before the effective date of participation if the

1 elected official has received a refund from a prior retirement system or plan
2 on termination of employment before the elected official's application for
3 redemption of prior service.

4 2. Prior service in this state as an elected official with an employer
5 now covered by the plan before the effective date of participation if the
6 elected official was not covered by a retirement system or plan during the
7 elected official's prior elected official service.

8 3. Prior service as an elected official of this state or a city, town
9 or county of this state if the elected official was not covered by a
10 retirement system or plan during that service whether or not the city, town
11 or county is an employer now covered by the plan.

12 4. Prior employment with the United States government, a state of the
13 United States or a political subdivision of a state of the United States.

14 B. Any present active elected official who elects to redeem any part
15 of the prior service or employment for which the elected official is deemed
16 eligible by the ~~fund manager~~ BOARD under this section shall pay into the plan
17 the amounts previously withdrawn by the elected official as a refund of the
18 elected official's accumulated contributions, if any, plus the additional
19 amount, if any, that is computed by the plan's actuary and that is necessary
20 to equal the increase in the actuarial present value of projected benefits
21 resulting from the redemption calculated using the actuarial methods and
22 assumptions that are prescribed by the plan's actuary.

23 C. On approval by the governing body of an incorporated city or town
24 that executes a joinder agreement under section 38-815, the city or town may
25 pay into the fund all or any part of the amount sufficient to provide
26 retirement benefits for elected officials or former elected officials for the
27 time of service as an elected official of the city or town before the joinder
28 agreement if no retirement benefits were in effect for elected officials
29 during the time of service being redeemed under this section.

30 D. A member electing to redeem service pursuant to this section may
31 pay for service being redeemed in the form of a lump sum payment to the plan,
32 a trustee-to-trustee transfer or a direct rollover of an eligible
33 distribution from a plan described in section 402(c)(8)(B)(iii), (iv), (v) or
34 (vi) of the internal revenue code or a rollover of an eligible distribution
35 from an individual retirement account or annuity described in section 408(a)
36 or (b) of the internal revenue code.

37 Sec. 28. Section 38-817, Arizona Revised Statutes, is amended to read:

38 38-817. Group health and accident coverage for retired members;
39 payment

40 A. The ~~fund manager~~ BOARD shall pay from the assets of the fund part
41 of the single coverage premium of any group health and accident insurance for
42 each retired member or survivor of the elected officials' retirement plan who
43 receives a pension if the retired member had eight or more years of credited
44 service under the plan. In order to qualify for payment pursuant to this
45 subsection, the retired member or survivor shall elect single coverage and

1 must have elected to participate in the coverage provided in section
2 38-651.01 or 38-782 or any other health and accident insurance coverage
3 provided or administered by a participating employer of the elected
4 officials' retirement plan. The ~~fund-manager~~ BOARD shall pay up to:

5 1. One hundred fifty dollars per month for each retired member or
6 survivor of the plan who is not eligible for medicare.

7 2. One hundred dollars per month for each retired member or survivor
8 of the plan who is eligible for medicare.

9 B. The ~~fund-manager~~ BOARD shall pay from the assets of the fund part
10 of the family coverage premium of any group health and accident insurance
11 each month for a benefit recipient who elects family coverage and who
12 otherwise qualifies for payment pursuant to subsection A of this section.
13 The ~~fund-manager~~ BOARD shall pay up to:

14 1. Two hundred sixty dollars per month if the retired member or
15 survivor of the plan and one or more dependents are not eligible for
16 medicare.

17 2. One hundred seventy dollars per month if the retired member or
18 survivor of the plan and one or more dependents are eligible for medicare.

19 3. Two hundred fifteen dollars per month if either:

20 (a) The retired member or survivor of the plan is not eligible for
21 medicare and one or more dependents are eligible for medicare.

22 (b) The retired member or survivor of the plan is eligible for
23 medicare and one or more dependents are not eligible for medicare.

24 C. Each retired member or survivor of the plan with less than eight
25 years of credited service and a dependent of such a retired member or
26 survivor who participates in the coverage provided by section 38-651.01 or
27 38-782 or who participates in any other health and accident insurance
28 coverage provided or administered by a participating employer of the plan is
29 entitled to receive a proportion of the full benefit prescribed by subsection
30 A, ~~OR B, E, F, G or H~~ of this section according to the following schedule:

31 1. 7.0 to 7.9 years of credited service, ninety per cent.

32 2. 6.0 to 6.9 years of credited service, seventy-five per cent.

33 3. 5.0 to 5.9 years of credited service, sixty per cent.

34 4. Those with less than five years of credited service do not qualify
35 for the benefit.

36 D. The ~~fund-manager~~ BOARD shall not pay more than the amount
37 prescribed in this section for a benefit recipient as a member or survivor of
38 the plan.

39 ~~E. In addition to the payments provided by subsection A of this~~
40 ~~section, through June 30, 2005, the fund manager shall pay an insurance~~
41 ~~premium benefit for medical coverage, not including limited benefit coverage~~
42 ~~as defined in section 20-1137, for each retired member or survivor of the~~
43 ~~plan who is entitled to a premium benefit payment pursuant to subsection A of~~
44 ~~this section and who lives in a nonservice area as follows:~~

1 ~~1. Up to three hundred dollars per month for a retired member or~~
2 ~~survivor of the plan who is not eligible for medicare and who has eight or~~
3 ~~more years of credited service. To qualify for this additional benefit, a~~
4 ~~retired member or survivor shall pay out of pocket medical insurance premiums~~
5 ~~of at least one hundred twenty-five dollars per month.~~

6 ~~2. Up to one hundred seventy dollars per month for a retired member or~~
7 ~~survivor of the plan who is eligible for medicare and who has eight or more~~
8 ~~years of credited service. To qualify for this additional benefit, a retired~~
9 ~~member or survivor shall pay out of pocket medical insurance premiums of at~~
10 ~~least one hundred dollars per month.~~

11 ~~F. In addition to the payments provided by subsection B of this~~
12 ~~section, through June 30, 2005, the fund manager shall pay an insurance~~
13 ~~premium benefit for medical coverage, not including limited benefit coverage~~
14 ~~as defined in section 20-1137, for a retired member or survivor of the plan~~
15 ~~who is entitled to a premium benefit payment pursuant to subsection B of this~~
16 ~~section, who is enrolled in a family medical plan and who lives in a~~
17 ~~nonservice area as follows:~~

18 ~~1. Up to six hundred dollars per month if the retired member or~~
19 ~~survivor of the plan and one or more dependents are not eligible for medicare~~
20 ~~and the retired member or survivor of the plan has eight or more years of~~
21 ~~credited service. To qualify for this additional benefit, a retired member~~
22 ~~or survivor shall pay out of pocket medical insurance premiums of at least~~
23 ~~four hundred twenty-five dollars per month.~~

24 ~~2. Up to three hundred fifty dollars per month if the retired member~~
25 ~~or survivor of the plan and one or more dependents are eligible for medicare~~
26 ~~and the retired member or survivor of the plan has eight or more years of~~
27 ~~credited service. To qualify for this additional benefit, a retired member~~
28 ~~or survivor shall pay out of pocket medical insurance premiums of at least~~
29 ~~two hundred dollars per month.~~

30 ~~3. If the retired member or survivor of the plan has eight or more~~
31 ~~years of credited service, up to four hundred seventy dollars per month if~~
32 ~~either:~~

33 ~~(a) The retired member or survivor of the plan is not eligible for~~
34 ~~medicare and one or more dependents are eligible for medicare.~~

35 ~~(b) The retired member or survivor of the plan is eligible for~~
36 ~~medicare and one or more dependents are not eligible for medicare.~~

37 ~~To qualify for this additional benefit, a retired member or survivor shall~~
38 ~~pay out of pocket medical insurance premiums of at least four hundred dollars~~
39 ~~per month.~~

40 ~~G. In addition to the payments provided by subsection A of this~~
41 ~~section, beginning July 1, 2005 through June 30, 2009, the fund manager shall~~
42 ~~pay an insurance premium benefit for medical coverage, not including limited~~
43 ~~benefit coverage as defined in section 20-1137, for each medicare eligible~~
44 ~~retired member or survivor of the plan who is entitled to a premium benefit~~
45 ~~payment pursuant to subsection A of this section and who lives in a~~

1 ~~nonservice area of up to one hundred seventy dollars per month for a retired~~
2 ~~member or survivor of the plan who is eligible for medicare and who has eight~~
3 ~~or more years of credited service. To qualify for this additional benefit, a~~
4 ~~retired member or survivor shall pay out of pocket medical insurance premiums~~
5 ~~of at least one hundred dollars per month.~~

6 ~~H. In addition to the payments provided by subsection B of this~~
7 ~~section, beginning July 1, 2005 through June 30, 2009, the fund manager shall~~
8 ~~pay an insurance premium benefit for medical coverage, not including limited~~
9 ~~benefit coverage as defined in section 20-1137, for a medicare eligible~~
10 ~~retired member or survivor of the plan who is entitled to a premium benefit~~
11 ~~payment pursuant to subsection B of this section, who is enrolled in a family~~
12 ~~medical plan and who lives in a nonservice area as follows:~~

13 ~~1. Up to three hundred fifty dollars per month if the retired member~~
14 ~~or survivor of the plan and one or more dependents are eligible for medicare~~
15 ~~and the retired member or survivor of the plan has eight or more years of~~
16 ~~credited service. To qualify for this additional benefit, a retired member~~
17 ~~or survivor shall pay out of pocket medical insurance premiums of at least~~
18 ~~two hundred dollars per month.~~

19 ~~2. If the retired member or survivor of the plan has eight or more~~
20 ~~years of credited service, up to four hundred seventy dollars per month~~
21 ~~if the retired member or survivor of the plan is eligible for medicare and~~
22 ~~one or more dependents are not eligible for medicare. To qualify for this~~
23 ~~additional benefit, a retired member or survivor shall pay out of pocket~~
24 ~~medical insurance premiums of at least four hundred dollars per month.~~

25 ~~I. A retired member or survivor of the plan who is enrolled in a~~
26 ~~managed care program in a nonservice area is not eligible for the payment~~
27 ~~prescribed in subsection E, F, G or H of this section.~~

28 ~~J. E. A retired member or survivor of the plan may elect to purchase~~
29 ~~individual health care coverage and receive a payment pursuant to this~~
30 ~~section through the retired member's employer if that employer assumes the~~
31 ~~administrative functions associated with the payment, including verification~~
32 ~~that the payment is used to pay for health insurance coverage if the payment~~
33 ~~is made to the retired member or survivor of the plan.~~

34 ~~K. For the purposes of this section, "nonservice area" means an area~~
35 ~~in this state in which the Arizona state retirement system pursuant to~~
36 ~~section 38-782, the department of administration pursuant to section~~
37 ~~38-651.01 or the member's or survivor's participating employer does not~~
38 ~~provide or administer a health care services organization program, excluding~~
39 ~~any preferred provider organization program or individual health indemnity~~
40 ~~policy, for which the retired member or survivor of the plan is eligible.~~

41 ~~Sec. 29. Section 38-819, Arizona Revised Statutes, is amended to read:~~

42 ~~38-819. Lump sum payment of benefit increases~~

43 ~~Notwithstanding any provision of this article, the fund manager BOARD,~~
44 ~~at the request of a retired member, a survivor or the retired member's or~~
45 ~~survivor's guardian or conservator, may pay any increase in retirement~~

benefits pursuant to this article in a lump sum payment based on the actuarial present value of the increase in the retirement benefits if the payment of the increase in retirement benefits would result in ineligibility for, reduction of or elimination of social service programs provided to the retired member or survivor by this state, a political subdivision of this state or the federal government. Lump sum payments made pursuant to this section are eligible for a direct rollover distribution.

Sec. 30. Section 38-842, Arizona Revised Statutes, is amended to read:
38-842. Definitions

In this article, unless the context otherwise requires:

1. "Accidental disability" means a physical or mental condition that the local board finds totally and permanently prevents an employee from performing a reasonable range of duties within the employee's job classification and that was incurred in the performance of the employee's duty.

2. "Accumulated contributions" means, for each member, the sum of the amount of the member's aggregate contributions made to the fund and the amount, if any, attributable to the employee's contributions before the member's effective date under another public retirement system, other than the federal social security act, and transferred to the fund minus the benefits paid to or on behalf of the member.

3. "Actuarial equivalent" means equality in present value of the aggregate amounts expected to be received under two different forms of payment, based on mortality and interest assumptions adopted by the fund manager BOARD.

4. "Alternate payee" means the spouse or former spouse of a participant as designated in a domestic relations order.

5. "Alternate payee's portion" means benefits that are payable to an alternate payee pursuant to a plan approved domestic relations order.

6. "Annuitant" means a person who is receiving a benefit pursuant to section 38-846.01.

7. "Average monthly benefit compensation" means the result obtained by dividing the total compensation paid to an employee during a considered period by the number of months, including fractional months, in which such compensation was received. The considered period shall be the three consecutive years within the last twenty completed years of credited service that yield the highest average. In the computation under this paragraph, a period of nonpaid or partially paid industrial leave shall be considered based on the compensation the employee would have received in the employee's job classification if the employee was not on industrial leave.

8. "BOARD" MEANS THE BOARD OF TRUSTEES OF THE SYSTEM, WHO ARE THE PERSONS APPOINTED TO INVEST AND OPERATE THE FUND.

~~8.~~ 9. "Catastrophic disability" means a physical and not a psychological condition that the local board determines prevents the employee from totally and permanently engaging in any gainful employment and that

1 results from a physical injury incurred in the performance of the employee's
2 duty.

3 ~~9-~~ 10. "Certified peace officer" means a peace officer certified by
4 the Arizona peace officers standards and training board.

5 ~~10-~~ 11. "Claimant" means any member or beneficiary who files an
6 application for benefits pursuant to this article.

7 ~~11-~~ 12. "Compensation" means, for the purpose of computing retirement
8 benefits, base salary, overtime pay, shift differential pay, military
9 differential wage pay and holiday pay paid to an employee by the employer on
10 a regular monthly, semimonthly or biweekly payroll basis and longevity pay
11 paid to an employee at least every six months for which contributions are
12 made to the system pursuant to section 38-843, subsection D. Compensation
13 does not include, for the purpose of computing retirement benefits, payment
14 for unused sick leave, payment in lieu of vacation, payment for compensatory
15 time or payment for any fringe benefits. In addition, compensation does not
16 include, for the purpose of computing retirement benefits, payments made
17 directly or indirectly by the employer to the employee for work performed for
18 a third party on a contracted basis or any other type of agreement under
19 which the third party pays or reimburses the employer for the work performed
20 by the employee for that third party, except for third party contracts
21 between public agencies for law enforcement, training, wildfire and emergency
22 management activities. For the purposes of this paragraph, "base salary"
23 means the amount of compensation each employee is regularly paid for personal
24 services rendered to an employer before the addition of any extra monies,
25 including overtime pay, shift differential pay, holiday pay, longevity pay,
26 fringe benefit pay and similar extra payments.

27 ~~12-~~ 13. "Credited service" means the member's total period of service
28 before the member's effective date of participation, plus those compensated
29 periods of the member's service thereafter for which the member made
30 contributions to the fund.

31 ~~13-~~ 14. "Cure period" means the ninety-day period in which a
32 participant or alternate payee may submit an amended domestic relations order
33 and request a determination, calculated from the time the system issues a
34 determination finding that a previously submitted domestic relations order
35 did not qualify as a plan approved domestic relations order.

36 ~~14-~~ 15. "Depository" means a bank in which all monies of the system
37 are deposited and held and from which all expenditures for benefits, expenses
38 and investments are disbursed.

39 ~~15-~~ 16. "Determination" means a written document that indicates to a
40 participant and alternate payee whether a domestic relations order qualifies
41 as a plan approved domestic relations order.

42 ~~16-~~ 17. "Determination period" means the ninety-day period in which
43 the system must review a domestic relations order that is submitted by a
44 participant or alternate payee to determine whether the domestic relations
45 order qualifies as a plan approved domestic relations order, calculated from

1 the time the system mails a notice of receipt to the participant and
2 alternate payee.

3 ~~17-~~ 18. "Direct rollover" means a payment by the system to an eligible
4 retirement plan that is specified by the distributee.

5 ~~18-~~ 19. "Distributee" means a member, a member's surviving spouse or a
6 member's spouse or former spouse who is the alternate payee under a plan
7 approved domestic relations order.

8 ~~19-~~ 20. "Domestic relations order" means an order of a court of this
9 state that is made pursuant to the domestic relations laws of this state and
10 that creates or recognizes the existence of an alternate payee's right to, or
11 assigns to an alternate payee the right to, receive a portion of the benefits
12 payable to a participant.

13 ~~20-~~ 21. "Effective date of participation" means July 1, 1968, except
14 with respect to employers and their covered employees whose contributions to
15 the fund commence thereafter, the effective date of their participation in
16 the system is as specified in the applicable joinder agreement.

17 ~~21-~~ 22. "Effective date of vesting" means the date a member's rights
18 to benefits vest pursuant to section 38-844.01.

19 ~~22-~~ 23. "Eligible child" means the unmarried child of a deceased
20 member who is under the age of eighteen or a full-time student who is under
21 the age of twenty-three or under a disability that began before the child
22 attained the age of twenty-three and who remains a dependent of the surviving
23 spouse or guardian.

24 ~~23-~~ 24. "Eligible groups" means only the following who are regularly
25 assigned to hazardous duty:

26 (a) Municipal police officers who are certified peace officers.

27 (b) Municipal fire fighters.

28 (c) Paid full-time fire fighters employed directly by a fire district
29 organized pursuant to section 48-803 or 48-804 with three or more full-time
30 fire fighters, but not including fire fighters employed by a fire district
31 pursuant to a contract with a corporation.

32 (d) State highway patrol officers who are certified peace officers.

33 (e) State fire fighters.

34 (f) County sheriffs and deputies who are certified peace officers.

35 (g) Game and fish wardens who are certified peace officers.

36 (h) Police officers who are certified peace officers and fire fighters
37 of a nonprofit corporation operating a public airport pursuant to sections
38 28-8423 and 28-8424. A police officer shall be designated pursuant to
39 section 28-8426 to aid and supplement state and local law enforcement
40 agencies and a fire fighter's sole duty shall be to perform fire fighting
41 services, including services required by federal regulations.

42 (i) Police officers who are certified peace officers and who are
43 appointed by the Arizona board of regents.

44 (j) Police officers who are certified peace officers and who are
45 appointed by a community college district governing board.

- 1 (k) State attorney general investigators who are certified peace
2 officers.
- 3 (l) County attorney investigators who are certified peace officers.
- 4 (m) Police officers who are certified peace officers and who are
5 employed by an Indian reservation police agency.
- 6 (n) Fire fighters who are employed by an Indian reservation fire
7 fighting agency.
- 8 (o) Police officers who are certified peace officers and who are
9 appointed by the department of administration.
- 10 (p) Department of liquor licenses and control investigators who are
11 certified peace officers.
- 12 (q) Arizona department of agriculture officers who are certified peace
13 officers.
- 14 (r) Arizona state parks board rangers and managers who are certified
15 peace officers.
- 16 (s) County park rangers who are certified peace officers.
- 17 ~~24-~~ 25. "Eligible retirement plan" means any of the following that
18 accepts a distributee's eligible rollover distribution:
- 19 (a) An individual retirement account described in section 408(a) of
20 the internal revenue code.
- 21 (b) An individual retirement annuity described in section 408(b) of
22 the internal revenue code.
- 23 (c) An annuity plan described in section 403(a) of the internal
24 revenue code.
- 25 (d) A qualified trust described in section 401(a) of the internal
26 revenue code.
- 27 (e) An annuity contract described in section 403(b) of the internal
28 revenue code.
- 29 (f) An eligible deferred compensation plan described in section 457(b)
30 of the internal revenue code that is maintained by a state, a political
31 subdivision of a state or any agency or instrumentality of a state or a
32 political subdivision of a state and that agrees to separately account for
33 amounts transferred into the eligible deferred compensation plan from this
34 plan.
- 35 ~~25-~~ 26. "Eligible rollover distribution" means a payment to a
36 distributee, but does not include any of the following:
- 37 (a) Any distribution that is one of a series of substantially equal
38 periodic payments made not less frequently than annually for the life or life
39 expectancy of the member or the joint lives or joint life expectancies of the
40 member and the member's beneficiary or for a specified period of ten years or
41 more.
- 42 (b) Any distribution to the extent the distribution is required under
43 section 401(a)(9) of the internal revenue code.
- 44 (c) The portion of any distribution that is not includable in gross
45 income.

1 ~~26.~~ 27. "Employee" means any person who is employed by a participating
2 employer and who is a member of an eligible group but does not include any
3 persons compensated on a contractual or fee basis. If an eligible group
4 requires certified peace officer status and at the option of the local board,
5 employee may include a person who is training to become a certified peace
6 officer.

7 ~~27.~~ 28. "Employers" means:

8 (a) Cities contributing to the fire fighters' relief and pension fund
9 as provided in sections 9-951 through 9-971 or statutes amended thereby and
10 antecedent thereto, as of June 30, 1968 on behalf of their full-time paid
11 fire fighters.

12 (b) Cities contributing under the state police pension laws as
13 provided in sections 9-911 through 9-934 or statutes amended thereby and
14 antecedent thereto, as of June 30, 1968 on behalf of their municipal
15 policemen.

16 (c) The state highway patrol covered under the state highway patrol
17 retirement system.

18 (d) The state, or any political subdivision of this state, including
19 towns, cities, fire districts, counties and nonprofit corporations operating
20 public airports pursuant to sections 28-8423 and 28-8424, that has elected to
21 participate in the system on behalf of an eligible group of public safety
22 personnel pursuant to a joinder agreement entered into after July 1, 1968.

23 (e) Indian tribes that have elected to participate in the system on
24 behalf of an eligible group of public safety personnel pursuant to a joinder
25 agreement entered into after July 1, 1968.

26 ~~28.~~ 29. "Fund" means the public safety personnel retirement fund,
27 which is the fund established to receive and invest contributions accumulated
28 under the system and from which benefits are paid.

29 ~~29. "Fund manager" means the fund manager of the system, who are the~~
30 ~~persons appointed to invest and operate the fund.~~

31 30. "Local board" means the retirement board of the employer, who are
32 the persons appointed to administer the system as it applies to their members
33 in the system.

34 31. "Member" means any employee who meets all of the following
35 qualifications:

36 (a) Who is either a full-time paid municipal police officer, a
37 full-time paid fire fighter, a law enforcement officer who is employed by
38 this state including the director thereof, a state fire fighter who is
39 primarily assigned to fire fighting duties, a fire fighter or police officer
40 of a nonprofit corporation operating a public airport pursuant to sections
41 28-8423 and 28-8424, all ranks designated by the Arizona law enforcement
42 merit system council, a state attorney general investigator who is a
43 certified peace officer, a county attorney investigator who is a certified
44 peace officer, a police officer who is appointed by the department of
45 administration and who is a certified peace officer, a department of liquor

1 licenses and control investigator who is a certified peace officer, an
2 Arizona department of agriculture officer who is a certified peace officer,
3 an Arizona state parks board ranger or manager who is a certified peace
4 officer, a county park ranger who is a certified peace officer, a person who
5 is a certified peace officer and who is employed by an Indian reservation
6 police agency, a fire fighter who is employed by an Indian reservation fire
7 fighting agency or an employee included in a group designated as eligible
8 employees under a joinder agreement entered into by their employer after July
9 1, 1968 and who is or was regularly assigned to hazardous duty.

10 (b) Who, on or after the employee's effective date of participation,
11 is receiving compensation for personal services rendered to an employer or
12 would be receiving compensation except for an authorized leave of absence.

13 (c) Whose customary employment is at least forty hours per week and
14 for more than six months in a calendar year.

15 (d) Who has not attained age sixty-five before the employee's
16 effective date of participation or who was over age sixty-five with
17 twenty-five years or more of service prior to the employee's effective date
18 of participation.

19 32. "Normal retirement date" means the first day of the calendar month
20 immediately following an employee's completion of twenty years of service or
21 the employee's sixty-second birthday and the employee's completion of fifteen
22 years of service.

23 33. "Notice of receipt" means a written document that is issued by the
24 system to a participant and alternate payee and that states that the system
25 has received a domestic relations order and a request for a determination
26 that the domestic relations order is a plan approved domestic relations
27 order.

28 34. "Ordinary disability" means a physical condition that the local
29 board determines will prevent an employee totally and permanently from
30 performing a reasonable range of duties within the employee's department or a
31 mental condition that the local board determines will prevent an employee
32 totally and permanently from engaging in any substantial gainful activity.

33 35. "Participant" means a member who is subject to a domestic relations
34 order.

35 36. "Participant's portion" means benefits that are payable to a
36 participant pursuant to a plan approved domestic relations order.

37 37. "Pension" means a series of monthly amounts that are payable to a
38 person who is entitled to receive benefits under the plan but does not
39 include an annuity that is payable pursuant to section 38-846.01.

40 38. "Personal representative" means the personal representative of a
41 deceased alternate payee.

42 39. "Plan approved domestic relations order" means a domestic relations
43 order that the system approves as meeting all the requirements for a plan
44 approved domestic relations order as otherwise prescribed in this article.

1 40. "Regularly assigned to hazardous duty" means regularly assigned to
2 duties of the type normally expected of municipal police officers, municipal
3 or state fire fighters, eligible fire district fire fighters, state highway
4 patrol officers, county sheriffs and deputies, fish and game wardens, fire
5 fighters and police officers of a nonprofit corporation operating a public
6 airport pursuant to sections 28-8423 and 28-8424, police officers who are
7 appointed by the Arizona board of regents or a community college district
8 governing board, state attorney general investigators who are certified peace
9 officers, county attorney investigators who are certified peace officers,
10 police officers who are appointed by the department of administration and who
11 are certified peace officers, department of liquor licenses and control
12 investigators who are certified peace officers, Arizona department of
13 agriculture officers who are certified peace officers, Arizona state parks
14 board rangers and managers who are certified peace officers, county park
15 rangers who are certified peace officers, police officers who are certified
16 peace officers and who are employed by an Indian reservation police agency or
17 fire fighters who are employed by an Indian reservation fire fighting agency.
18 Those individuals who are assigned solely to support duties such as
19 secretaries, stenographers, clerical personnel, clerks, cooks, maintenance
20 personnel, mechanics and dispatchers are not assigned to hazardous duty
21 regardless of their position classification title. Since the normal duties of
22 those jobs described in this paragraph are constantly changing, questions as
23 to whether a person is or was previously regularly assigned to hazardous duty
24 shall be resolved by the local board on a case-by-case basis. Resolutions by
25 local boards are subject to rehearing and appeal.

26 41. "Retirement" means termination of employment after a member has
27 fulfilled all requirements for a pension. Retirement shall be considered as
28 commencing on the first day of the month immediately following a member's
29 last day of employment or authorized leave of absence, if later.

30 42. "Segregated funds" means the amount of benefits that would
31 currently be payable to an alternate payee pursuant to a domestic relations
32 order under review by the system, or a domestic relations order submitted to
33 the system that failed to qualify as a plan approved domestic relations
34 order, if the domestic relations order were determined to be a plan approved
35 domestic relations order.

36 43. "Service" means the last period of continuous employment of an
37 employee by the employers before the employee's retirement, except that if
38 such period includes employment during which the employee would not have
39 qualified as a member had the system then been effective, such as employment
40 as a volunteer fire fighter, then only twenty-five per cent of such
41 noncovered employment shall be considered as service. Any absence that is
42 authorized by an employer shall not be considered as interrupting continuity
43 of employment if the employee returns within the period of authorized
44 absence. Transfers between employers also shall not be considered as
45 interrupting continuity of employment. Any period during which a member is

1 receiving sick leave payments or a temporary disability pension shall be
2 considered as service. Notwithstanding any other provision of this
3 paragraph, any period during which a person was employed as a full-time paid
4 fire fighter for a corporation that contracted with an employer to provide
5 firefighting services on behalf of the employer shall be considered as
6 service if the employer has elected at its option to treat part or all of the
7 period the firefighter worked for the company as service in its applicable
8 joinder agreement. Any reference in this system to the number of years of
9 service of an employee shall be deemed to include fractional portions of a
10 year.

11 44. "State" means the state of Arizona, including any department,
12 office, board, commission, agency or other instrumentality of the state.

13 45. "System" means the public safety personnel retirement system
14 established by this article.

15 46. "Temporary disability" means a physical or mental condition that
16 the local board finds totally and temporarily prevents an employee from
17 performing a reasonable range of duties within the employee's department and
18 that was incurred in the performance of the employee's duty.

19 Sec. 31. Section 38-843, Arizona Revised Statutes, is amended to read:

20 38-843. Contributions

21 A. Each employer who participates in the system on behalf of a group
22 of employees who were covered under a prior public retirement system, other
23 than the federal social security act, shall transfer all securities and
24 monies attributable to the taxes and contributions of the state other than
25 the state contribution to social security, the employer and the employees for
26 the covered group of employees under the other system, such transfer to be
27 made to the fund subject to all existing liabilities and on or within sixty
28 days following the employer's effective date. All monies and securities
29 transferred to the fund shall be credited to the employer's account in the
30 fund. A record of the market value and the cost value of such transferred
31 contributions shall be maintained for actuarial and investment purposes.

32 B. As determined by actuarial valuations reported to the employer and
33 the local board by the ~~fund-manager~~ BOARD OF TRUSTEES, each employer shall
34 make level per cent of compensation contributions sufficient under such
35 actuarial valuations to meet both the normal cost plus the actuarially
36 determined amount required to amortize the unfunded accrued liability over,
37 beginning July 1, 2005, a rolling period of at least twenty and not more than
38 thirty years that is established by the ~~fund-manager~~ BOARD OF TRUSTEES taking
39 into account the recommendation of the system's actuary, except that,
40 beginning with fiscal year 2006-2007, except as otherwise provided, the
41 employer contribution rate shall not be less than eight per cent of
42 compensation. For any employer whose actual contribution rate is less than
43 eight per cent of compensation for fiscal year 2006-2007, that employer's
44 contribution rate is not subject to the eight per cent minimum but, for
45 fiscal year 2006-2007 and each year thereafter, shall be at least five per

1 cent and not more than the employer's actual contribution rate. An employer
2 shall have the option of paying a higher level per cent of compensation
3 thereby reducing its unfunded past service liability. An employer shall also
4 have the option of increasing its contributions in order to reduce the
5 contributions required from its members under subsection C, except that if an
6 employer elects this option the employer shall pay the same higher level
7 percentage contribution for all members of the eligible group. During a
8 period when an employee is on industrial leave and the employee elects to
9 continue contributions during the period of industrial leave, the employer
10 shall make the contributions based on the compensation the employee would
11 have received in the employee's job classification if the employee was in
12 normal employment status. All contributions made by the employers and all
13 state taxes allocated to the fund shall be irrevocable and shall be used to
14 pay benefits under the system or to pay expenses of the system and fund. The
15 minimum employer contribution that is paid and that is in excess of the
16 normal cost plus the actuarially determined amount required to amortize the
17 unfunded accrued liability as calculated pursuant to this subsection shall be
18 used to reduce future employer contribution increases and shall not be used
19 to pay for an increase in benefits that are otherwise payable to members.
20 The ~~fund-manager~~ BOARD shall separately account for these monies in the fund.
21 Forfeitures arising because of severance of employment before a member
22 becomes eligible for a pension or any other reason shall be applied to reduce
23 the cost of the employer, not to increase the benefits otherwise payable to
24 members. After the close of any fiscal year, if the system's actuary
25 determines that the actuarial valuation of an employer's account contains
26 excess valuation assets other than excess valuation assets that were in the
27 employer's account as of fiscal year 2004-2005 and is more than one hundred
28 per cent funded, the ~~fund-manager~~ BOARD shall account for fifty per cent of
29 the excess valuation assets in a stabilization reserve account. After the
30 close of any fiscal year, if the system's actuary determines that the
31 actuarial valuation of an employer's account has a valuation asset deficiency
32 and an unfunded actuarial accrued liability, the ~~fund-manager~~ BOARD shall use
33 any valuation assets in the stabilization reserve account for that employer,
34 to the extent available, to limit the decline in that employer's funding
35 ratio to not more than two per cent.

36 C. Each member, throughout the member's period of service from the
37 member's effective date of participation, shall contribute to the fund an
38 amount equal to 7.65 per cent of the member's compensation, except as
39 provided in subsection B. During a period when an employee is on industrial
40 leave and the employee elects to continue contributions during the period of
41 industrial leave, the employee shall make the employee's contribution based
42 on the compensation the employee would have received in the employee's job
43 classification if the employee was in normal employment status.
44 Contributions of members shall be required as a condition of employment and
45 membership in the system and shall be made by payroll deductions. Every

1 employee shall be deemed to consent to such deductions. Payment of an
2 employee's compensation, less such payroll deductions, shall constitute a
3 full and complete discharge and satisfaction of all claims and demands by the
4 employee relating to remuneration for the employee's services rendered during
5 the period covered by the payment, except with respect to the benefits
6 provided under the system.

7 D. Each employer shall transfer to the ~~fund-manager~~ BOARD the employer
8 and employee contributions provided for in subsections B and C within ten
9 working days after each payroll date. Contributions transferred after that
10 date shall include a penalty of ten per cent per annum, compounded annually,
11 for each day the contributions are late, such penalty to be paid by the
12 employer. Delinquent payments due under this subsection, together with
13 interest charges as provided in this subsection, may be recovered by action
14 in a court of competent jurisdiction against an employer liable for the
15 payments or, at the request of the ~~fund-manager~~ BOARD, may be deducted from
16 any other monies, including excise revenue taxes, payable to such employer by
17 any department or agency of this state.

18 Sec. 32. Section 38-843.01, Arizona Revised Statutes, is amended to
19 read:

20 38-843.01. Internal revenue code section 414(h) pickup of
21 member contributions

22 Each employer shall pick up the contributions required of members on
23 account of compensation paid after the effective date specified in the
24 resolution of the ~~fund-manager~~ BOARD activating the provisions of this
25 section. The picked up contributions shall be treated as employer
26 contributions for the purpose of tax treatment under the United States
27 internal revenue code. The specified effective date shall not be before the
28 date the system receives notification from the internal revenue service that
29 pursuant to section 414(h) of the internal revenue code the member
30 contributions picked up shall not be included in gross income for income tax
31 purposes until the time that the picked up contributions are distributed by
32 refund or pension payments. The employers shall pick up the member
33 contributions from monies established and available in a retirement deduction
34 account, which monies would otherwise have been designated as member
35 contributions and paid to the system. Member contributions picked up
36 pursuant to this section shall be treated for all other purposes, in the same
37 manner and to the same extent, as member contributions made before the
38 effective date.

39 Sec. 33. Section 38-843.02, Arizona Revised Statutes, is amended to
40 read:

41 38-843.02. Internal revenue code qualification

42 The legislature intends that the system is a qualified pension plan
43 under section 401 of the internal revenue code, as amended, or successor
44 provisions of law, and that the trust is exempt from taxation under section
45 501 of the internal revenue code, as amended. The assets of the fund are

1 held in trust for the exclusive benefit of the members and beneficiaries of
2 the system. The ~~fund-manager~~ BOARD may adopt such additional provisions to
3 the system as are necessary to fulfill this intent.

4 Sec. 34. Section 38-843.04, Arizona Revised Statutes, is amended to
5 read:

6 38-843.04. Compensation limitation; adjustments

7 A. The annual compensation of each member taken into account for
8 purposes of the system shall not exceed the following:

9 1. Beginning January 1, 1996 through December 31, 2001, one hundred
10 fifty thousand dollars.

11 2. Beginning January 1, 2002, two hundred thousand dollars.

12 B. If compensation under the system is determined on a period of time
13 that contains fewer than twelve calendar months, the compensation limit for
14 that period of time is equal to the dollar limit for the calendar year during
15 which the period of time begins, multiplied by the fraction in which the
16 numerator is the number of full months in that period of time and the
17 denominator is twelve.

18 C. The ~~fund-manager~~ BOARD shall adjust the annual compensation limits
19 under this section at the same time and in the same manner as adjusted by the
20 United States secretary of the treasury under section 401(a)(17)(B) of the
21 internal revenue code. The adjustment under this subsection for a calendar
22 year applies to annual compensation for the plan year that begins with or
23 within the calendar year.

24 Sec. 35. Section 38-844, Arizona Revised Statutes, is amended to read:

25 38-844. Requirements for retirement benefits and disability
26 pensions

27 A. A member shall be eligible for a normal pension on retirement on or
28 after the member's normal retirement date. Payment of a normal pension shall
29 commence as of the first day of the month following the date of retirement,
30 and the last payment shall be made as of the last day of the month in which
31 the death of the retired member occurs.

32 B. A member is eligible for an accidental disability pension if the
33 member's employment is terminated by reason of accidental disability. A
34 member is eligible for an ordinary disability pension if the member's
35 employment is terminated before the member's normal retirement date by reason
36 of ordinary disability. A member shall file an application for a disability
37 pension after the disabling incident or within one year after the date the
38 member ceases to be an employee. Timely application for an accidental,
39 catastrophic or ordinary disability pension is a prerequisite to receipt of
40 the pension. Payment of an accidental, catastrophic or ordinary disability
41 pension shall commence as of the first day of the month following the date of
42 retirement or the expiration of a period during which the member is receiving
43 sick leave payments or a temporary disability pension, whichever is later.
44 The last payment shall be made as of the last day of the month in which the
45 death of the retired member occurs, or if disability ceases before the

1 member's normal retirement date, the first day of the month in which
2 disability ceases.

3 C. A member is eligible for a catastrophic disability pension if the
4 member's employment is terminated by reason of catastrophic disability. If
5 more than the allowable catastrophic disability pensions are approved by the
6 local boards in a calendar year, from and after December 31 of the following
7 calendar year a member of the system is not eligible to apply for a
8 catastrophic disability pension. On or before January 31, the ~~fund manager~~
9 BOARD OF TRUSTEES shall report to the president of the senate and the speaker
10 of the house of representatives the number of catastrophic disability
11 pensions that were approved by the local boards in the preceding calendar
12 year. For the purposes of this subsection, "allowable catastrophic
13 disability pensions" means for calendar year 2004, ten, and for subsequent
14 calendar years the number of allowable catastrophic disability pensions
15 allowed in the prior calendar year minus the number of catastrophic
16 disability pensions approved by the local boards in the prior calendar year
17 plus four.

18 D. Notwithstanding any other provision of this section, no member
19 shall qualify for an accidental, catastrophic or ordinary disability pension
20 if the local board determines that the member's disability results from the
21 following:

22 1. An injury suffered while engaged in a felonious criminal act or
23 enterprise.

24 2. Service in the armed forces of the United States that entitles the
25 member to a veteran's disability pension.

26 3. A physical or mental condition or injury that existed or occurred
27 before the member's date of membership in the system.

28 E. Accidental or ordinary disability shall be considered to have
29 ceased and an accidental or ordinary disability pension terminates if the
30 member:

31 1. Has sufficiently recovered, in the opinion of the local board,
32 based on a medical examination by a physician or clinic appointed by the
33 local board, to be able to engage in a reasonable range of duties within the
34 member's department and the member refuses an offer of employment by an
35 employer in the system.

36 2. Refuses to undergo any medical examination requested by the LOCAL
37 board, provided that a medical examination shall not be required more
38 frequently than once in any calendar year.

39 F. Sixty months after the award of a catastrophic disability pension,
40 the local board shall reevaluate the member. If the member still qualifies
41 for the catastrophic disability pension, the member is entitled to continue
42 to receive the pension at the reduced amount prescribed in section 38-845,
43 subsection E. A catastrophic disability shall be considered to have ceased
44 and a catastrophic disability pension terminates if the local board
45 determines that the member has sufficiently recovered and is able to engage

1 in gainful employment based on a medical examination by a physician or a
 2 clinic appointed by the local board. After the sixty month review, the
 3 catastrophic disability shall be considered to have ceased and a catastrophic
 4 disability pension terminates if the local board determines that the member
 5 has sufficiently recovered and is able to engage in gainful employment based
 6 on a medical examination by a physician or a clinic appointed by the local
 7 board, except that the medical examination shall not be required more
 8 frequently than once in a calendar year. The medical review after the sixty
 9 month period does not apply after the date the catastrophic disability
 10 pensioner would have attained twenty-five years of service assuming the
 11 pensioner remained a member of the system. The local board shall also
 12 terminate a catastrophic disability pension if the member refuses to undergo
 13 any medical examination requested by the LOCAL board. A member whose
 14 catastrophic disability pension is terminated may apply for and if eligible
 15 is entitled to receive an accidental disability pension as provided in this
 16 section.

17 G. Subsection E of this section does not apply after a disability
 18 pensioner's normal retirement date. The amount of a disability pension shall
 19 not be recomputed at a disability pensioner's normal retirement date.

20 H. An ordinary disability pension shall be reduced in the period
 21 before the member's normal retirement date if the member engages in any
 22 employment and if the member's income from this employment is greater than
 23 the member's pension unreduced by this subsection. The amount of the
 24 reduction shall be equal to the difference between the member's income from
 25 employment and the member's unreduced pension. The local board shall have
 26 the right to suspend payments of an ordinary disability pension if the
 27 disabled member fails to report earned income. Such suspension shall be for
 28 the period there is no satisfactory report with restoration of benefits on
 29 acceptance of such report or until the member's normal retirement date,
 30 whichever occurs earlier. If, in the opinion of the local board, the
 31 reduction provided in this subsection is insufficient to recover monies
 32 previously paid to a member, each local board, in its sole discretion, may
 33 bring an action to recover any outstanding balance due, notwithstanding any
 34 other rights the local board possesses.

35 I. If accidental or ordinary disability ceases before a retired member
 36 attains the member's normal retirement date and the member is reemployed by
 37 an employer, the pension payable on the member's subsequent retirement shall
 38 be determined as provided in section 38-849, subsection D.

39 J. A member shall be eligible for a temporary disability pension if
 40 the member's employment is terminated before the member's normal retirement
 41 date by reason of temporary disability. Payment of a temporary disability
 42 pension shall commence as of the first day of the month following the date of
 43 disability or the expiration of a period during which the member is receiving
 44 compensation and sick leave payments, whichever is later. The last payment
 45 shall be made as of the first day of the month in which either the death of

1 the member occurs or the local board deems the member is no longer under
2 temporary disability, whichever first occurs, provided that no more than
3 twelve monthly temporary disability payments shall be made in total to the
4 member.

5 K. If on the expiration of a temporary disability pension the local
6 board finds on application that the member has an accidental or ordinary
7 disability, the member shall be eligible for an accidental or ordinary
8 disability pension, as provided in this section.

9 L. The system shall make payments pursuant to section 401(a)(9) of the
10 internal revenue code and the regulations that are issued under that section.
11 Notwithstanding any other provision of the system, beginning January 1, 1987
12 payment of benefits to a member shall commence no later than April 1 of the
13 calendar year following the later of:

14 1. The calendar year in which the member attains seventy and one-half
15 years of age.

16 2. The date the member terminates employment.

17 Sec. 36. Section 38-844.02, Arizona Revised Statutes, is amended to
18 read:

19 38-844.02. Deferred retirement option plan; purpose

20 A. A deferred retirement option plan is established. The purpose of
21 the deferred retirement option plan is to add flexibility to the system and
22 to provide members who elect to participate in the deferred retirement option
23 plan access to a lump sum benefit in addition to their normal monthly
24 retirement benefit on actual retirement.

25 B. The ~~fund manager~~ BOARD shall offer the deferred retirement option
26 plan to members on a voluntary basis as an alternative method of benefit
27 accrual under the system.

28 Sec. 37. Section 38-844.05, Arizona Revised Statutes, is amended to
29 read:

30 38-844.05. Deferred retirement option benefits and
31 participation accounts

32 A. A deferred retirement option plan participation account is an
33 account established within the system on behalf of each deferred retirement
34 option plan participant. All benefits accrued pursuant to this article shall
35 be accounted for in the deferred retirement option plan participation
36 account. A deferred retirement option plan participant does not have a claim
37 on the assets of the system with respect to the member's deferred retirement
38 option plan participation account and assets shall not be set aside for any
39 deferred retirement option plan participant that are separate from all other
40 system assets.

41 B. All amounts credited to a member's deferred retirement option plan
42 participation account are fully vested.

43 C. A member's deferred retirement option plan participation account
44 shall be credited with the following:

1 1. An amount, credited monthly, that is computed in the same manner as
2 a normal retirement benefit using the factors of credited service and average
3 monthly benefit compensation in effect on the date of deferred retirement
4 option plan participation.

5 2. An amount, credited monthly, that represents interest at a rate
6 equal to the assumed rate of return determined by the ~~fund-manager~~ BOARD.

7 D. The participant is not entitled to receive any amount prescribed by
8 section 38-856 or 38-857 during the deferred retirement option plan
9 participation period.

10 Sec. 38. Section 38-844.09, Arizona Revised Statutes, is amended to
11 read:

12 38-844.09. Internal revenue code compliance

13 The deferred retirement plan option shall not jeopardize in any way the
14 tax qualified status of the system under the rules of the internal revenue
15 service. The ~~fund-manager~~ BOARD may adopt additional provisions to the
16 extent necessary or appropriate for the deferred retirement option plan to
17 comply with applicable federal laws or rules.

18 Sec. 39. Section 38-846, Arizona Revised Statutes, is amended to read:

19 38-846. Death benefits

20 A. If the spouse of a member or retired member is surviving at such
21 member's death, the spouse shall be eligible for a surviving spouse's
22 pension, provided that such spouse had been married to the decedent either
23 for a period of at least two years prior to such member's date of death or
24 during such member's service. Payment of a surviving spouse's pension shall
25 commence as of the last day of the month following the member's or retired
26 member's date of death. The last payment shall be made as of the last day of
27 the month in which the surviving spouse's death occurs.

28 B. The surviving spouse of a deceased retired member shall receive a
29 monthly amount equal to four-fifths of the monthly amount of pension which
30 THAT the decedent would have received immediately before death. The
31 surviving spouse of a deceased member who was not killed in the line of duty
32 or did not die from injuries suffered in the line of duty shall receive a
33 monthly amount computed as for the surviving spouse of a deceased retired
34 member, under the assumption that the member had retired for reason of
35 accidental disability immediately before death. The surviving spouse of a
36 deceased member who is killed in the line of duty or dies from injuries
37 suffered in the line of duty is entitled to receive a monthly amount equal to
38 the deceased member's average monthly benefit compensation less any amount
39 payable for an eligible child under this section. A member who was eligible
40 for or receiving a temporary disability pension at the time of the member's
41 death is not deemed to be retired for the purposes of this subsection. For
42 the purposes of this subsection, "killed in the line of duty" means the
43 decedent's death was the direct and proximate result of the performance of
44 the decedent's public safety duties and does not include suicide.

1 C. If at least one eligible child is surviving at the death of a
 2 member or retired member, but no surviving spouse's pension then becomes
 3 payable, a guardian's or conservator's pension shall be payable to the person
 4 who is serving, or who is deemed by the local board to be serving, as the
 5 legally appointed guardian or custodian of the eligible child. If an
 6 eligible child of a member or retired member is surviving at the member's or
 7 retired member's death, the eligible child is entitled to receive a child's
 8 pension payable to the person who is serving or who is deemed by the local
 9 board to be serving as the legally appointed guardian or custodian of the
 10 eligible child. The member may also direct by designation to the local board
 11 that the guardian or conservator pension or child's pension be paid to the
 12 trustee of a trust created for the benefit of the eligible child. A
 13 guardian's or conservator's pension shall also become payable if at least one
 14 eligible child is surviving when a surviving spouse's pension terminates.

15 D. The ~~fund-manager~~ BOARD shall pay a guardian's or conservator's
 16 pension during the same period in which a pension is payable to at least one
 17 eligible child. The guardian, conservator or designated trustee is entitled
 18 to receive the same monthly amount as would have been payable to the
 19 decedent's surviving spouse had a surviving spouse's pension become payable
 20 ~~upon~~ ON the decedent's death.

21 E. Each eligible child is entitled to a monthly amount equal to
 22 one-tenth of the monthly amount of pension ~~which~~ THAT the deceased member or
 23 retired member would have received immediately prior to death. A deceased
 24 member shall be assumed to be retired for reasons of accidental disability
 25 immediately before the member's death. If there are three or more children
 26 eligible for a child's pension, a maximum of two shares of the child's
 27 pension shall be payable, the aggregate of such shares to be apportioned in
 28 equal measure to each eligible child.

29 F. If a member has accumulated contributions remaining in the system
 30 at the date of death of the last beneficiary, a lump sum refund of such
 31 accumulated contributions shall be payable to the person whom the member has
 32 designated as the member's refund beneficiary, or if the member's refund
 33 beneficiary is not then surviving, to the designated contingent refund
 34 beneficiary, or if the designated contingent refund beneficiary is not then
 35 surviving, to such person nearest of kin as selected by the local board. The
 36 amount of the lump sum refund shall be the remaining accumulated
 37 contributions.

38 G. In calculating the right to and the amount of the surviving
 39 spouse's pension, the law in effect on the date of the death of the member or
 40 retired member controls, unless the law under which the member retired
 41 provides for a greater benefit amount for a surviving spouse.

1 Sec. 40. Section 38-846.02, Arizona Revised Statutes, is amended to
2 read:

3 38-846.02. Termination of membership

4 A. On termination of employment for any reason other than death or
5 retirement, within twenty days after filing a completed application with the
6 ~~fund-manager~~ BOARD, a member is entitled to receive the following amounts,
7 less any benefit payments the member has received or any amount the member
8 may owe to the system:

9 1. If the member has less than five years of credited service with the
10 system, the member may withdraw the member's accumulated contributions from
11 the system.

12 2. If the member has five or more years of credited service with the
13 system, the member may withdraw the member's accumulated contributions plus
14 an amount equal to the amount determined as follows:

15 (a) 5.0 to 5.9 years of credited service, twenty-five per cent of all
16 member contributions deducted from the member's salary pursuant to section
17 38-843, subsection C.

18 (b) 6.0 to 6.9 years of credited service, forty per cent of all member
19 contributions deducted from the member's salary pursuant to section 38-843,
20 subsection C.

21 (c) 7.0 to 7.9 years of credited service, fifty-five per cent of all
22 member contributions deducted from the member's salary pursuant to section
23 38-843, subsection C.

24 (d) 8.0 to 8.9 years of credited service, seventy per cent of all
25 member contributions deducted from the member's salary pursuant to section
26 38-843, subsection C.

27 (e) 9.0 to 9.9 years of credited service, eighty-five per cent of all
28 member contributions deducted from the member's salary pursuant to section
29 38-843, subsection C.

30 (f) 10.0 or more years of credited service, one hundred per cent of
31 all member contributions deducted from the member's salary pursuant to
32 section 38-843, subsection C.

33 B. If a member has more than ten years of credited service with the
34 system, leaves the monies prescribed in subsection A of this section on
35 account with the system for more than thirty days after termination of
36 employment and after that time period requests a refund of those monies, the
37 member is entitled to receive the amount prescribed in subsection A of this
38 section plus interest at a rate determined by the ~~fund-manager~~ BOARD for each
39 year computed from and after the member's termination of employment.

40 C. If the amount prescribed in subsection A or B of this section
41 includes monies that are an eligible rollover distribution and the member
42 elects to have the distribution paid directly to an eligible retirement plan
43 or individual retirement account or annuity and specifies the eligible
44 retirement plan or individual retirement account or annuity to which the
45 distribution is to be paid, the distribution shall be made in the form of a

1 direct trustee-to-trustee transfer to the specified eligible retirement plan.
2 The distribution shall be made in the form and at the time prescribed by the
3 ~~fund manager~~ BOARD. A member who withdraws the amount prescribed in
4 subsection A or B of this section from the system or who elects a transfer
5 pursuant to this section forfeits all rights to benefits under the system and
6 rights to rehearing and appeal, except as provided in section 38-849.

7 Sec. 41. Section 38-847, Arizona Revised Statutes, is amended to read:
8 38-847. Local boards

9 A. The administration of the system and responsibility for making the
10 provisions of the system effective for each employer are vested in a local
11 board. The department of public safety, the Arizona game and fish
12 department, the department of emergency and military affairs, the university
13 of Arizona, Arizona state university, northern Arizona university, each
14 county sheriff's office, each county attorney's office, each county parks
15 department, each municipal fire department, each eligible fire district, each
16 community college district, each municipal police department, the department
17 of law, the department of administration, the department of liquor licenses
18 and control, the Arizona department of agriculture, the Arizona state parks
19 board, each Indian reservation police agency and each Indian reservation fire
20 fighting agency shall have a local board. A nonprofit corporation operating
21 pursuant to sections 28-8423 and 28-8424 shall have one LOCAL board for all
22 of its members. Each local board shall be constituted as follows:

23 1. For political subdivisions or Indian tribes, the mayor or chief
24 elected official or a designee of the mayor or chief elected official
25 approved by the respective governing body as chairman, two members elected by
26 secret ballot by members employed by the appropriate employer and two
27 citizens, one of whom shall be the head of the merit system if it exists for
28 the group of members, appointed by the mayor or chief elected official and
29 with the approval of the governing body of the city or the governing body of
30 the employer. The appointed two citizens shall serve on both local boards in
31 a city or Indian tribes where both fire and police department employees are
32 members.

33 2. For state agencies and nonprofit corporations operating pursuant to
34 sections 28-8423 and 28-8424, two members elected by secret ballot by members
35 employed by the appropriate employer and three citizens appointed by the
36 governor. Each state agency local board shall elect a chairman.

37 3. For fire districts organized pursuant to section 48-804, the
38 secretary-treasurer as chairman, two members elected by secret ballot by
39 members employed by the fire district and two citizens appointed by the
40 secretary-treasurer, one of whom is a resident of the fire district and one
41 of whom has experience in personnel administration but who is not required to
42 be a resident of the fire district.

43 B. ~~Upon~~ ON the taking effect of this system for an employer, the
44 appointments and elections of LOCAL board members shall take place with one
45 elective and appointive LOCAL board member serving a term ending two years

1 after the effective date of participation for the employer and other local
2 board members serving a term ending four years after the effective date.
3 Thereafter, every second year, and as a vacancy occurs, an office shall be
4 filled for a term of four years in the same manner as previously provided.

5 C. Each member of a local board, within ten days after the member's
6 appointment or election, shall take an oath of office that, so far as it
7 devolves ~~upon~~ ON the member, the member shall diligently and honestly
8 administer the affairs of the local board and that the member shall not
9 knowingly violate or willingly permit to be violated any of the provisions of
10 law applicable to the system.

11 D. Except as limited by subsection E of this section, a local board
12 shall have such powers as may be necessary to discharge the following duties:

13 1. To decide all questions of eligibility and service credits, and
14 determine the amount, manner and time of payment of any benefits under the
15 system.

16 2. To prescribe procedures to be followed by claimants in filing
17 applications for benefits.

18 3. To make a determination as to the right of any claimant to a
19 benefit and to afford any claimant or the ~~fund-manager~~ BOARD OF TRUSTEES, or
20 both, a right to a rehearing on the original determination. Unless all
21 parties involved in a matter presented to the local board for determination
22 otherwise agree, the local board shall commence a hearing on the matter
23 within ninety days after the date the matter is presented to the local board
24 for determination. If a local board fails to commence a hearing as provided
25 in this paragraph, on a matter presented to the LOCAL board for
26 determination, the relief demanded by the party petitioning the LOCAL board
27 is deemed granted and approved by the LOCAL board. The granting and approval
28 of this relief is considered final and binding unless a timely request for
29 rehearing or appeal is made as provided in this article.

30 4. To request and receive from the employers and from members such
31 information as is necessary for the proper administration of the system and
32 action on claims for benefits and to forward such information to the ~~fund~~
33 ~~manager~~ BOARD OF TRUSTEES.

34 5. To distribute, in such manner as the local board determines to be
35 appropriate, information explaining the system received from the ~~fund-manager~~
36 BOARD OF TRUSTEES.

37 6. To furnish the employer, the ~~fund-manager~~, BOARD OF TRUSTEES and
38 the legislature, ~~upon~~ ON request, with such annual reports with respect to
39 the administration of the system as are reasonable and appropriate.

40 7. To receive and review the actuarial valuation of the system for its
41 group of members.

42 8. To receive and review reports of the financial condition and of the
43 receipts and disbursements of the fund from the ~~fund-manager~~ BOARD OF
44 TRUSTEES.

45 9. To appoint medical boards as provided in section 38-859.

1 10. To sue and be sued to effectuate the duties and responsibilities
2 set forth in this article.

3 E. A local board shall have no power to add to, subtract from, modify
4 or waive any of the terms of the system, change or add to any benefits
5 provided by the system or waive or fail to apply any requirement of
6 eligibility for membership or benefits under the system.

7 F. A local board, from time to time, shall establish and adopt such
8 rules as it deems necessary or desirable for its administration. All rules
9 and decisions of a LOCAL board shall be uniformly and consistently applied to
10 all members in similar circumstances. If a claim or dispute is presented to
11 a local board for determination but the local board has not yet adopted
12 uniform rules of procedure for adjudication of the claim or dispute, the
13 local board shall adopt and use the model uniform rules of local board
14 procedure that are issued by the ~~fund manager's~~ BOARD OF TRUSTEES' fiduciary
15 counsel to adjudicate the claim or dispute.

16 G. Any action by a majority vote of the members of a local board which
17 THAT is not inconsistent with the provisions of the system shall be final,
18 conclusive and binding ~~upon~~ ON all persons affected by it unless a timely
19 application for a rehearing or appeal is filed as provided in this article.

20 H. A claimant or the ~~fund manager~~ BOARD OF TRUSTEES may apply for a
21 rehearing before the local board within the time period prescribed in this
22 subsection. An application for a rehearing shall be filed in writing with a
23 member of the local board or its secretary within sixty days after:

24 1. The applicant-claimant receives notification of the local board's
25 original action by certified mail, by attending the meeting at which the
26 action is taken or by receiving benefits from the system pursuant to the
27 local board's original action, whichever occurs first.

28 2. The ~~applicant-fund manager~~ APPLICANT-BOARD OF TRUSTEES receives
29 notification of the local board's original action by certified mail or by
30 receipt of written directions from the local board pursuant to its original
31 action, whichever occurs first.

32 I. A hearing before a local board on a matter remanded from the
33 superior court is not subject to a rehearing before the local board.

34 J. Decisions of local boards are subject to judicial review pursuant
35 to title 12, chapter 7, article 6.

36 K. When making a ruling, determination or calculation, the local board
37 shall be entitled to rely ~~upon~~ ON information furnished by the employer, the
38 ~~fund manager~~ BOARD OF TRUSTEES, independent legal counsel or the actuary for
39 the system.

40 L. Each member of a local board is entitled to one vote. A majority
41 of the appointed and elected members ~~is~~ ARE necessary for a decision by the
42 members of a local board at any meeting of the local board.

43 M. The local board shall adopt such bylaws as it deems desirable. The
44 local board shall elect a secretary who may, but need not, be a member of the
45 local board. The secretary of the local board shall keep a record and

1 prepare minutes of all meetings, forward the minutes to the ~~fund-manager~~
2 BOARD OF TRUSTEES within forty-five days after each meeting and forward all
3 necessary communications to the ~~fund-manager~~ BOARD OF TRUSTEES.

4 N. The fees of the medical board and of the local board's independent
5 legal counsel and all other expenses of the local board necessary for the
6 administration of the system shall be paid by the employer at such rates and
7 in such amounts as the local board shall approve. Legal counsel that is
8 employed by the local board is independent of the employer and any employee
9 organization or member and owes its duty of loyalty only to the local board
10 in connection with its representation of the local board.

11 O. The local board shall issue directions to the ~~fund-manager~~ BOARD OF
12 TRUSTEES concerning all benefits ~~which~~ THAT are to be paid from the
13 employer's account pursuant to the provisions of the fund. The local board
14 shall keep on file, in such manner as it may deem convenient or proper, all
15 reports from the ~~fund-manager~~ BOARD OF TRUSTEES and the actuary.

16 P. The local board and the individual members of the local board shall
17 be indemnified from the assets of the employer's account in the fund against
18 any and all liabilities arising by reason of any act, or failure to act, made
19 in good faith pursuant to the provisions of the system, including expenses
20 reasonably incurred in the defense of any claim relating to the act or
21 failure to act.

22 Sec. 42. Section 38-848, Arizona Revised Statutes, is amended to read:

23 38-848. Board of trustees; powers and duties; independent trust
24 fund; administrator; agents and employees

25 A. The ~~fund-manager~~ BOARD OF TRUSTEES shall consist of ~~five~~ SEVEN
26 members and shall have the rights, powers and duties that are set forth in
27 this section. The term of office of members shall be ~~three~~ FIVE years to
28 expire on the third Monday in January of the appropriate year. Members are
29 eligible to receive compensation in an amount of fifty dollars a day, but not
30 to exceed one thousand dollars in any one fiscal year, and are eligible for
31 reimbursement of expenses pursuant to chapter 4, article 2 of this title.
32 The ~~fund-manager~~ BOARD consists of the following members appointed by the
33 governor pursuant to section 38-211:

34 1. ~~One~~ TWO elected member MEMBERS from a local board to represent the
35 employees.

36 2. One member to represent this state as an employer of public safety
37 personnel. This member shall have the qualifications prescribed in
38 subsection R of this section.

39 3. One member to represent the cities as employers of public safety
40 personnel.

41 4. An elected county or state official or a judge of the superior
42 court, court of appeals or supreme court.

43 5. ~~One~~ TWO public member. ~~This member~~ MEMBERS. THESE MEMBERS shall
44 have the qualifications prescribed in subsection R of this section.

1 B. All monies in the fund shall be deposited and held in a public
2 safety personnel retirement system depository. Monies in the fund shall be
3 disbursed from the depository separate and apart from all monies or funds of
4 this state and the agencies, instrumentalities and subdivisions of this
5 state, except that the ~~fund-manager~~ BOARD may commingle the assets of the
6 fund and the assets of all other plans entrusted to its management, subject
7 to the crediting of receipts and earnings and charging of payments to the
8 appropriate employer, system or plan. The monies shall be secured by the
9 depository in which they are deposited and held to the same extent and in the
10 same manner as required by the general depository law of this state. For
11 purposes of making the decision to invest in securities owned by the fund or
12 any plan administered by the ~~fund-manager~~ BOARD, the fund and assets of the
13 plans are subject to the sole management of the ~~fund-manager~~ BOARD for the
14 purpose of this article except that, on the ~~fund-manager's~~ BOARD'S election
15 to invest in a particular security or make a particular investment, the
16 assets comprising the security or investment may be chosen and managed by
17 third parties approved by the ~~fund-manager~~ BOARD. The ~~fund-manager~~ BOARD may
18 invest in portfolios of securities chosen and managed by a third party. The
19 ~~fund-manager's~~ BOARD'S decision to invest in securities such as mutual funds,
20 commingled investment funds, exchange traded funds, private equity or venture
21 capital limited partnerships, real estate limited partnerships or limited
22 liability companies and real estate investment trusts whose assets are chosen
23 and managed by third parties does not constitute an improper delegation of
24 the ~~fund-manager's~~ BOARD'S investment authority.

25 C. All contributions under this system and other retirement plans that
26 the ~~fund-manager~~ BOARD administers shall be forwarded to the ~~fund-manager~~
27 BOARD and shall be held, invested and reinvested by the ~~fund-manager~~ BOARD as
28 provided in this article. All property and monies of the fund and other
29 retirement plans that the ~~fund-manager~~ BOARD administers, including income
30 from investments and from all other sources, shall be retained for the
31 exclusive benefit of members, as provided in the system and other retirement
32 plans that the ~~fund-manager~~ BOARD administers, and shall be used to pay
33 benefits to members or their beneficiaries or to pay expenses of operation
34 and administration of the system and fund and other retirement plans that the
35 ~~fund-manager~~ BOARD administers.

36 D. The ~~fund-manager~~ BOARD shall have the full power in its sole
37 discretion to invest and reinvest, alter and change the monies accumulated
38 under the system and other retirement plans that the ~~fund-manager~~ BOARD
39 administers as provided in this article. In addition to its power to make
40 investments managed by others, the ~~fund-manager~~ BOARD may delegate the
41 authority the ~~fund-manager~~ BOARD deems necessary and prudent to investment
42 management pursuant to section 38-848.03, as well as to the administrator,
43 employed by the ~~fund-manager~~ BOARD pursuant to subsection K, paragraph 6 of
44 this section, and any assistant administrators to invest the monies of the
45 system and other retirement plans that the ~~fund-manager~~ BOARD administers if

1 the administrator, investment management and any assistant administrators
2 follow the investment policies that are promulgated by the ~~fund-manager~~
3 BOARD. The ~~fund-manager~~ BOARD may commingle securities and monies of the
4 fund, the elected officials' retirement plan, the corrections officer
5 retirement plan and other plans or monies entrusted to its care, subject to
6 the crediting of receipts and earnings and charging of payments to the
7 account of the appropriate employer, system or plan. In making every
8 investment, the ~~fund-manager~~ BOARD shall exercise the judgment and care under
9 the circumstances then prevailing which persons of ordinary prudence,
10 discretion and intelligence exercise in the management of their own affairs,
11 not in regard to speculation but in regard to the permanent disposition of
12 their funds, considering the probable income from their funds as well as the
13 probable safety of their capital, provided:

14 1. That not more than eighty per cent of the combined assets of the
15 system or other plans that the ~~fund-manager~~ BOARD manages shall be invested
16 at any given time in corporate stocks, based on cost value of such stocks
17 irrespective of capital appreciation.

18 2. That no more than five per cent of the combined assets of the
19 system or other plans that the ~~fund-manager~~ BOARD manages shall be invested
20 in corporate stock issued by any one corporation, other than corporate stock
21 issued by corporations chartered by the United States government or corporate
22 stock issued by a bank or insurance company.

23 3. That not more than five per cent of the voting stock of any one
24 corporation shall be owned by the system and other plans that the ~~fund~~
25 ~~manager~~ BOARD administers, except that this limitation does not apply to
26 membership interests in limited liability companies.

27 4. That corporate stocks and exchange traded funds eligible for
28 purchase shall be restricted to stocks and exchange traded funds that, except
29 for bank stocks, insurance stocks and membership interests in limited
30 liability companies, are either:

31 (a) Listed or approved on issuance for listing on an exchange
32 registered under the securities exchange act of 1934, as amended (15 United
33 States Code sections 78a through 7811).

34 (b) Designated or approved on notice of issuance for designation on
35 the national market system of a national securities association registered
36 under the securities exchange act of 1934, as amended (15 United States Code
37 sections 78a through 7811).

38 (c) Listed or approved on issuance for listing on an exchange
39 registered under the laws of this state or any other state.

40 (d) Listed or approved on issuance for listing on an exchange of a
41 foreign country with which the United States is maintaining diplomatic
42 relations at the time of purchase, except that no more than twenty per cent
43 of the combined assets of the system and other plans that the ~~fund-manager~~
44 BOARD manages shall be invested in foreign securities, based on the cost
45 value of the stocks irrespective of capital appreciation.

1 (e) An exchange traded fund that is recommended by the chief
2 investment officer of the system, that is registered under the investment
3 company act of 1940 (15 United States Code sections 80a-1 through 80a-64) and
4 that is both traded on a public exchange and based on a publicly recognized
5 index.

6 E. Notwithstanding any other law, the ~~fund-manager~~ BOARD shall not be
7 required to invest in any type of investment that is dictated or required by
8 any entity of the federal government and that is intended to fund economic
9 development projects, public works or social programs, but may consider such
10 economically targeted investments pursuant to its fiduciary responsibility.
11 The ~~fund-manager~~ BOARD, on behalf of the system, may invest in, lend monies
12 to or guarantee the repayment of monies by a limited liability company,
13 limited partnership, joint venture, partnership, limited liability
14 partnership or trust in which the system has a financial interest, whether
15 the entity is closely held or publicly traded and that, in turn, may be
16 engaged in any lawful activity, including venture capital, private equity,
17 the ownership, development, management, improvement or operation of real
18 property and any improvements or businesses on real property or the lending
19 of monies.

20 F. Conference call meetings of the ~~fund-manager of the public safety~~
21 ~~personnel retirement system~~ BOARD that are held for investment purposes only
22 are not subject to chapter 3, article 3.1 of this title, except that the ~~fund~~
23 ~~manager~~ BOARD shall maintain minutes of these conference call meetings and
24 make them available for public inspection within twenty-four hours after the
25 meeting. The ~~fund-manager~~ BOARD shall review the minutes of each conference
26 call meeting and shall ratify all legal actions taken during each conference
27 call meeting at the next scheduled meeting of the ~~fund-manager~~ BOARD.

28 G. The ~~fund-manager~~ BOARD shall not be held liable for the exercise of
29 more than ordinary care and prudence in the selection of investments and
30 performance of its duties under the system and shall not be limited to
31 so-called "legal investments for trustees", but all monies of the system and
32 other plans that the ~~fund-manager~~ BOARD administers shall be invested subject
33 to all of the conditions, limitations and restrictions imposed by law.

34 H. Except as provided in subsection D of this section, the ~~fund~~
35 ~~manager~~ BOARD may:

36 1. Invest and reinvest the principal and income of all assets that the
37 ~~fund-manager~~ BOARD manages without distinction between principal and income.

38 2. Sell, exchange, convey, transfer or otherwise dispose of any
39 investments made on behalf of the system or other plans the ~~fund-manager~~
40 BOARD administers in the name of the system or plans by private contract or
41 at public auction.

42 3. Also:

43 (a) Vote on any stocks, bonds or other securities.

44 (b) Give general or special proxies or powers of attorney with or
45 without power of substitution.

1 (c) Exercise any conversion privileges, subscription rights or other
2 options and make any payments incidental to the exercise of the conversion
3 privileges, subscription rights or other options.

4 (d) Consent to or otherwise participate in corporate reorganizations
5 or other changes affecting corporate securities, delegate discretionary
6 powers and pay any assessments or charges in connection therewith.

7 (e) Generally exercise any of the powers of an owner with respect to
8 stocks, bonds, securities or other investments held in or owned by the system
9 or other plans whose assets the ~~fund-manager~~ BOARD administers.

10 4. Make, execute, acknowledge and deliver any other instruments that
11 may be necessary or appropriate to carry out the powers granted in this
12 section.

13 5. Register any investment held by the system or other plans whose
14 assets the ~~fund-manager~~ BOARD administers in the name of the system or plan
15 or in the name of a nominee.

16 6. At the expense of the system or other plans that the ~~fund-manager~~
17 BOARD administers, enter into an agreement with any bank or banks for the
18 safekeeping and handling of securities and other investments coming into the
19 possession of the ~~fund-manager~~ BOARD. The agreement shall be entered into
20 under terms and conditions that secure the proper safeguarding, inventory,
21 withdrawal and handling of the securities and other investments. No access
22 to and no deposit or withdrawal of the securities from any place of deposit
23 selected by the ~~fund-manager~~ BOARD shall be permitted or made except as the
24 terms of the agreement may provide.

25 7. Appear before local boards and the courts of this state and
26 political subdivisions of this state through counsel or appointed
27 representative to protect the fund or the assets of other plans that the ~~fund~~
28 ~~manager~~ BOARD administers. The ~~fund-manager~~ BOARD is not responsible for the
29 actions or omissions of the local boards under this system but may seek
30 review or rehearing of actions or omissions of local boards. The ~~fund~~
31 ~~manager~~ BOARD does not have a duty to review actions of the local boards but
32 may do so in its discretion in order to protect the fund.

33 8. Empower the fund administrator to take actions on behalf of the
34 ~~fund-manager~~ BOARD that are necessary for the protection and administration
35 of the fund or the assets of other plans that the ~~fund-manager~~ BOARD
36 administers pursuant to the guidelines of the ~~fund-manager~~ BOARD.

37 9. Do all acts, whether or not expressly authorized, that may be
38 deemed necessary or proper for the protection of the investments held in the
39 fund or owned by other plans that the ~~fund-manager~~ BOARD administers.

40 I. Investment expenses and operation and administrative expenses of
41 the ~~fund-manager~~ BOARD shall be accounted for separately and allocated
42 against investment income.

43 J. The ~~fund-manager~~ BOARD, as soon as possible within a period of six
44 months following the close of any fiscal year, shall transmit to the governor
45 and the legislature a comprehensive annual financial report on the operation

1 of the system and other plans that the ~~fund-manager~~ BOARD administers
2 containing, among other things:

3 1. A balance sheet.
4 2. A statement of income and expenditures for the year.
5 3. A report on an actuarial valuation of its assets and liabilities.
6 4. A detailed statement of the investments acquired and disposed of
7 during the year.

8 5. A list of investments owned.

9 6. The total rate of return, yield on cost, and per cent of cost to
10 market value of the fund and the assets of other plans that the ~~fund-manager~~
11 BOARD administers.

12 7. Any other statistical and financial data that may be necessary for
13 the proper understanding of the financial condition of the system and other
14 plans that the ~~fund-manager~~ BOARD administers and the results of their
15 operations. A synopsis of the annual report shall be published for the
16 information of members of the system, the elected officials' retirement plan
17 or the corrections officer retirement plan.

18 K. The ~~fund-manager~~ BOARD shall:

19 1. Maintain the accounts of the system and other plans that the ~~fund~~
20 ~~manager~~ BOARD administers and issue statements to each employer annually and
21 to each member who may request it.

22 2. Report the results of the actuarial valuations to the local boards
23 and employers.

24 3. Contract on a fee basis with an independent investment counsel to
25 advise the ~~fund-manager~~ BOARD in the investment management of the fund and
26 assets of other plans that the ~~fund-manager~~ BOARD administers and with an
27 independent auditing firm to audit the ~~fund-manager's~~ BOARD'S accounting.

28 4. Permit the auditor general to make an annual audit and the results
29 shall be transmitted to the governor and the legislature.

30 5. Contract on a fee basis with an actuary who shall make actuarial
31 valuations of the system and other plans that the ~~fund-manager~~ BOARD
32 administers, be the technical adviser of the ~~fund-manager~~ BOARD on matters
33 regarding the operation of the funds created by the provisions of the system,
34 the elected officials' retirement plan, the corrections officer retirement
35 plan and the fire fighter and peace officer cancer insurance policy program
36 and perform other duties required in connection therewith. The actuary must
37 be a member of a nationally recognized association or society of actuaries.

38 6. Employ, as administrator, a person, state department or other body
39 to serve at the pleasure of the ~~fund-manager~~ BOARD.

40 7. Establish procedures and guidelines for contracts with actuaries,
41 auditors, investment counsel and legal counsel and for safeguarding of
42 securities.

43 L. The administrator, under the direction of the ~~fund-manager~~ BOARD,
44 shall:

45 1. Administer this article.

1 2. Invest the funds of the system and other plans that the fund
2 ~~manager~~ BOARD administers as the ~~fund-manager~~ BOARD deems necessary and
3 prudent as provided in subsections D and H of this section and subject to the
4 investment policies and fund objectives promulgated by the ~~fund-manager~~
5 BOARD.

6 3. Establish and maintain an adequate system of accounts and records
7 for the system and other plans that the ~~fund-manager~~ BOARD administers, which
8 shall be integrated with the accounts, records and procedures of the
9 employers so that the system and other plans that the ~~fund-manager~~ BOARD
10 administers operates most effectively and at minimum expense and that
11 duplication of records and accounts is avoided.

12 4. In accordance with the ~~fund-manager's~~ BOARD'S governance policy and
13 personnel rules and procedures and the budget adopted by the ~~fund-manager~~
14 BOARD, hire such employees and services the administrator deems necessary and
15 prescribe their duties, including the hiring of one or more assistant
16 administrators to manage the system's operations, investments and legal
17 affairs.

18 5. Be responsible for income, the collection of the income and the
19 accuracy of all expenditures.

20 6. Recommend to the ~~fund-manager~~ BOARD annual contracts for the
21 system's actuary, auditor, investment counsel, legal counsel and safeguarding
22 of securities.

23 7. Perform additional duties and powers prescribed by the ~~fund-manager~~
24 BOARD and delegated to the administrator.

25 M. The system is an independent trust fund and the ~~fund-manager~~ BOARD,
26 the administrator, the assistant administrators and all persons employed by
27 them are not under the jurisdiction of the department of administration or
28 any other agency, department or instrumentality of this state or subject to
29 section 38-611 or title 41, chapter 4 or 6. The salaries of the
30 administrator, assistant administrators and other employees of the ~~fund~~
31 ~~manager~~ BOARD are the sole determination of the ~~fund-manager~~ BOARD.
32 Contracts for goods and services approved by the ~~fund-manager~~ BOARD are not
33 subject to title 41, chapter 23. As an independent trust fund whose assets
34 are separate and apart from all other funds of this state, the system and the
35 ~~fund-manager~~ BOARD are not subject to the restrictions prescribed in section
36 35-154 or article IX, sections 5 and 8, Constitution of Arizona.

37 N. The attorney general or an attorney approved by the attorney
38 general and paid by the fund shall be the attorney for the ~~fund-manager~~ BOARD
39 and shall represent the ~~fund-manager~~ BOARD in any legal proceeding or forum
40 that the ~~fund-manager~~ BOARD deems appropriate. The ~~fund-manager~~ BOARD,
41 administrator, assistant administrators and employees of the ~~fund-manager~~
42 BOARD are not personally liable for any acts done in their official capacity
43 in good faith reliance on the written opinions of the ~~fund-manager's~~ BOARD'S
44 attorney.

1 O. At least once in each five-year period after the effective date,
2 the actuary shall make an actuarial investigation into the mortality, service
3 and compensation experience of the members and beneficiaries of the system
4 and other plans that the ~~fund-manager~~ BOARD administers and shall make a
5 special valuation of the assets and liabilities of the monies of the system
6 and plans. Taking into account the results of the investigation and special
7 valuation, the ~~fund-manager~~ BOARD shall adopt for the system and other plans
8 that the ~~fund-manager~~ BOARD administers those mortality, service and other
9 tables deemed necessary.

10 P. On the basis of the tables the ~~fund-manager~~ BOARD adopts, the
11 actuary shall make a valuation of the assets and liabilities of the funds of
12 the system and other plans that the ~~fund-manager~~ BOARD administers not less
13 frequently than every year. By November 1 of each year the ~~fund-manager~~
14 BOARD shall provide a preliminary report and by December 15 of each year
15 provide a final report to the governor, the speaker of the house of
16 representatives and the president of the senate on the contribution rate for
17 the ensuing fiscal year.

18 Q. Neither the ~~fund-manager~~ BOARD nor any member or employee of the
19 ~~fund-manager~~ BOARD shall directly or indirectly, for himself or as an agent,
20 in any manner use the monies or deposits of the fund except to make current
21 and necessary payments, nor shall the ~~fund-manager~~ BOARD or any member or
22 employee become an endorser or surety or in any manner an obligor for monies
23 loaned by or borrowed from the fund or the assets of any other plans that the
24 ~~fund-manager~~ BOARD administers.

25 R. The members of the ~~fund-manager~~ BOARD who are appointed pursuant to
26 subsection A, paragraphs 2 and 5 of this section shall have at least ten
27 years' substantial experience as any one or a combination of the following:

- 28 1. A portfolio manager acting in a fiduciary capacity.
- 29 2. A securities analyst.
- 30 3. An employee or principal of a trust institution, investment
31 organization or endowment fund acting either in a management or an investment
32 related capacity.
- 33 4. A chartered financial analyst in good standing as determined by the
34 association for investment management and research.
- 35 5. A professor at the university level teaching economics or
36 investment related subjects.
- 37 6. An economist.
- 38 7. Any other professional engaged in the field of public or private
39 finances.

40 S. Financial or commercial information that is provided to the ~~fund~~
41 ~~manager~~ BOARD, employees of the ~~fund-manager~~ BOARD and attorneys of the ~~fund~~
42 ~~manager~~ BOARD in connection with investments in which the ~~fund-manager~~ BOARD
43 has invested or investments the ~~fund-manager~~ BOARD has considered for
44 investment is confidential, proprietary and not a public record if the

1 information is information that would customarily not be released to the
2 public by the person or entity from whom the information was obtained.

3 Sec. 43. Section 38-848.01, Arizona Revised Statutes, is amended to
4 read:

5 38-848.01. Qualified governmental excess benefit arrangement;
6 definitions

7 A. The ~~fund-manager~~ BOARD may establish a qualified governmental
8 excess benefit arrangement for the sole purpose of enabling the ~~fund-manager~~
9 BOARD to continue to apply the same formula for determining benefits payable
10 to all employees covered by the system whose benefits under the system are
11 limited by section 415 of the internal revenue code.

12 B. The ~~fund-manager~~ BOARD shall administer the qualified governmental
13 excess benefit arrangement. The ~~fund-manager~~ BOARD has full discretionary
14 fiduciary authority to determine all questions arising in connection with the
15 arrangement, including its interpretation and any factual questions arising
16 under the arrangement.

17 C. All members and retired members of the system are eligible to
18 participate in the qualified governmental excess benefit arrangement if their
19 benefits under the system would exceed the limitations imposed by section 415
20 of the internal revenue code.

21 D. On or after the effective date of the qualified governmental excess
22 benefit arrangement, the employer shall pay to each eligible member of the
23 system who retires on or after the effective date and to each retired member
24 who retired before the effective date and that member's beneficiary, if
25 required, a supplemental pension benefit equal to the amount by which the
26 benefit that would have been payable under the system, without regard to any
27 provisions in the system incorporating the limitation on benefits imposed by
28 section 415 of the internal revenue code, exceeds the benefit actually
29 payable taking into account the limitation imposed on the system by section
30 415 of the internal revenue code. The ~~fund-manager~~ BOARD shall compute and
31 pay the supplemental pension benefits under the same terms and conditions and
32 to the same person as the benefits payable to or on account of a retired
33 member under the system.

34 E. The employer shall not fund benefits payable under the qualified
35 governmental excess benefit arrangement. The employer shall pay benefits
36 payable under the qualified governmental excess benefit arrangement out of
37 the general assets of the employer. For administrative purposes, the
38 employer may establish a grantor trust for the benefit of eligible members.
39 The employer shall be treated as grantor of the trust for purposes of section
40 677 of the internal revenue code. The rights of any person to receive
41 benefits under the qualified governmental excess benefit arrangement are
42 limited to those of a general creditor of the employer.

43 F. The terms and conditions contained in the system, other than those
44 relating to the benefit limitation imposed by section 415 of the internal

1 revenue code, apply, unless the terms and conditions are inconsistent with
2 the purpose of the qualified governmental excess benefit arrangement.

3 G. For the purposes of this section:

4 1. "Internal revenue code" has the same meaning prescribed in section
5 42-1001.

6 2. "Qualified governmental excess benefit arrangement" means a portion
7 of the system if:

8 (a) The portion is maintained solely to provide to members of the
9 system that part of a member's annual benefit that is otherwise payable under
10 the terms of the system and that exceeds the limitations imposed by section
11 415 of the internal revenue code.

12 (b) Under that portion, a direct or indirect election to defer
13 compensation is not provided at any time to the member.

14 (c) Excess benefits are not paid from a trust that is a part of the
15 system unless the trust is maintained solely for the purpose of providing
16 excess benefits.

17 Sec. 44. Section 38-848.03, Arizona Revised Statutes, is amended to
18 read:

19 38-848.03. Appointed investment management

20 A. The ~~fund-manager~~ BOARD may appoint investment management.
21 Investment management shall have:

22 1. The highest professional and fiduciary recommendations.

23 2. Not less than three years' experience at handling institutional
24 investments of at least two hundred fifty million dollars. This paragraph is
25 satisfied if investment management, the individual retained by investment
26 management or individual employees in a firm of investment managers meet this
27 requirement.

28 3. Had responsibility for investment decision making as an insurance
29 company investment fund, an investment division of a bank, a mutual fund, an
30 investment organization or institution, a pension fund or an investment
31 adviser who is designated as a chartered financial analyst by the chartered
32 financial analyst institute.

33 B. A bank serving as investment management does not have a conflict of
34 interest because it is also a depository in which any monies administered by
35 the ~~fund-manager~~ BOARD are deposited.

36 C. The ~~fund-manager~~ BOARD shall appoint investment management for a
37 term of one year and may appoint the investment management to succeeding
38 terms. The ~~fund-manager~~ BOARD may remove investment management for not
39 complying with this article or for failure to comply with or adhere to the
40 ~~fund-manager's~~ BOARD'S investment goals, objectives or policies.

41 D. Investment management appointed by the ~~fund-manager~~ BOARD:

42 1. May purchase and sell in the name of the system and other plans
43 that the ~~fund-manager~~ BOARD administers any of the securities and investments
44 held by the system or plans.

1 2. Subject to any restrictions imposed by the ~~fund-manager~~ BOARD, are
2 IS responsible for making all investment decisions relating to the
3 investments the ~~fund-manager~~ BOARD has assigned investment management to
4 manage.

5 E. Investment management shall not directly or indirectly:

6 1. Except for the fees agreed to be paid by the ~~fund-manager~~ BOARD to
7 investment management or as otherwise agreed by the ~~fund-manager~~ BOARD, have
8 any interest in the investments being managed by investment management for
9 the ~~fund-manager~~ BOARD.

10 2. Borrow monies, funds or deposits of the system or other plans that
11 the ~~fund-manager~~ BOARD administers or use these monies in any manner except
12 as directed under this article.

13 3. Be an endorser, surety or obligor on investments made under this
14 article.

15 F. Subject to the limitations in this article, the ~~fund-manager~~ BOARD
16 may authorize the administrator, any assistant administrators and other
17 in-house investment professionals employed by the ~~fund-manager~~ BOARD to make
18 investments for the system and other plans that the ~~fund-manager~~ BOARD
19 administers that do not exceed fifty per cent of the assets of the system and
20 other plans measured at cost.

21 G. To exercise the responsibilities prescribed in this section, the
22 ~~fund-manager~~ BOARD may enter into contracts that may be interpreted and
23 enforced under the laws of a jurisdiction other than this state and that are
24 not subject to section 35-214 or 38-511 or title 41, chapter 23.

25 Sec. 45. Section 38-849, Arizona Revised Statutes, is amended to read:

26 38-849. Limitations on receiving pension; violation;
27 classification; reemployment after severance;
28 reinstatement of service credits; reemployment of
29 retired or disabled member

30 A. If a member is convicted of, or discharged because of, theft,
31 embezzlement, fraud or misappropriation of an employer's property or property
32 under the control of the employer, the member shall be subject to restitution
33 and fines imposed by a court of competent jurisdiction. The court may order
34 the restitution or fines to be paid from any payments otherwise payable to
35 the member from the retirement system.

36 B. A person who knowingly makes any false statement or who falsifies
37 or permits to be falsified any record of the system with an intent to defraud
38 the system is guilty of a class 6 felony. If any change or error in the
39 records results in any member or beneficiary receiving from the system more
40 or less than the member or beneficiary would have been entitled to receive
41 had the records been correct, the local board shall correct such error, and
42 as far as practicable shall adjust the payments in such manner that the
43 actuarial equivalent of the benefit to which such member or beneficiary was
44 correctly entitled shall be paid. If a member is convicted of a crime
45 specified in this subsection the member shall be entitled to receive a lump

1 sum payment of the member's accumulated contributions but forfeits any future
2 compensation and benefits that would otherwise accrue to the member or the
3 member's estate under this article.

4 C. If a member who received a severance refund on termination of
5 employment, as provided in section 38-846.02, is subsequently reemployed by
6 an employer, the member's prior service credits shall be cancelled and
7 service shall be credited only from the date the member's most recent
8 reemployment period commenced. However, if the former member's reemployment
9 with the same employer occurred within two years after the former member's
10 termination date, and, within ninety days after reemployment the former
11 member signs a written election consenting to reimburse the fund within one
12 year, the former member shall be required to redeposit the amount withdrawn
13 at the time of the former member's separation from service, with interest
14 thereon at the rate of nine per cent for each year compounded each year from
15 the date of withdrawal to the date of repayment. On satisfaction of this
16 obligation the member's prior service credits shall be reinstated.

17 D. If a retired member becomes employed in any capacity by the
18 employer from which the member retired before sixty consecutive days after
19 the member's date of retirement, the system shall not make pension payments
20 to the retired member during the period of reemployment. If a retired member
21 is reemployed by an employer, no contributions shall be made on the retired
22 member's account, nor any service credited, during the period of the
23 reemployment. ~~The fund manager shall review all reemployment determinations.~~
24 Notwithstanding this subsection, if a retired member subsequently becomes
25 employed in the same position by the employer from which the member retired,
26 the system shall not make pension payments to the retired member during the
27 period of reemployment. On subsequent termination of employment by the
28 retired member, the retired member is entitled to receive a pension based on
29 the member's service and compensation before the date of the member's
30 reemployment. If a member who retired under disability is reemployed by an
31 employer as an employee, that member shall be treated as if the member had
32 been on an uncompensated leave of absence during the period of the member's
33 disability retirement and shall be a contributing member of the system. THE
34 BOARD SHALL REVIEW ALL REEMPLOYMENT DETERMINATIONS. For the purposes of this
35 subsection, "same position" means the member is in a position where the
36 member performs substantially similar duties that were performed and
37 exercises substantially similar authority that was exercised by the retired
38 member before retirement.

39 E. A person who defrauds the system or who takes, converts, steals or
40 embezzles monies owned by or from the system and who fails or refuses to
41 return the monies to the system on the ~~fund manager's~~ BOARD'S written request
42 is subject to civil suit by the system in the superior court in Maricopa
43 county. On entry of an order finding the person has defrauded the system or
44 taken, converted, stolen or embezzled monies owned by or from the system, the
45 court shall enter an order against that person and for the system awarding

1 the system all of its costs and expenses of any kind, including attorney
2 fees, that were necessary to successfully prosecute the action. The court
3 shall also grant the system a judicial lien on all of the nonexempt property
4 of the person against whom judgment is entered pursuant to this subsection in
5 an amount equal to all amounts awarded to the system, plus interest at the
6 rate prescribed by section 44-1201, subsection A, until all amounts owed are
7 paid to the system.

8 F. Notwithstanding any other provision of this article, the fund
9 manager BOARD may offset against any benefits otherwise payable by the system
10 to an active or retired member or survivor any court ordered amounts awarded
11 to the fund-manager BOARD and system and assessed against the member or
12 survivor.

13 Sec. 46. Section 38-850, Arizona Revised Statutes, is amended to read:

14 38-850. Assurances and liabilities; board of trustee
15 discretion; overpayments; underpayments

16 A. Nothing contained in the system shall be construed as a contract of
17 employment between an employer and any employee, or as a right of any
18 employee to be continued in the employment of an employer, or as a limitation
19 of the rights of an employer to discharge any of its employees, with or
20 without cause.

21 B. No employee shall have any right to, or interest in, any assets of
22 the fund upon ON termination of his employment or otherwise, except as
23 provided from time to time under the system, and then only to the extent of
24 the benefits payable to such employee out of the assets of the fund. All
25 payments of benefits as provided for in the system shall be made solely out
26 of the assets of the fund, and neither the employers, the fund-manager, nor
27 BOARD AND any member of the board shall be ARE NOT liable therefor FOR
28 PAYMENT OF BENEFITS in any manner.

29 C. Benefits, employee contributions or employer contributions,
30 including interest, earnings and all other credits, payable under this system
31 shall not be subject in any manner to anticipation, alienation, sale,
32 transfer, assignment, pledge, encumbrance, charge, garnishment, execution or
33 levy of any kind, either voluntary or involuntary, prior to actually being
34 received by the person entitled to the benefit, contribution, earning or
35 credit, under the terms of the system, and any attempt to anticipate,
36 alienate, sell, transfer, assign, pledge, encumber, charge or otherwise
37 dispose of any such right hereunder shall be void. The fund shall not in any
38 manner be liable for, or subject to, the debts, contracts, liabilities,
39 engagements or torts of any person entitled to such rights hereunder. This
40 subsection does not preclude arrangements for the withholding of taxes from
41 benefit payments, arrangements for the recovery of benefit overpayments,
42 arrangements for the transfer of benefit rights to another plan or
43 arrangements for direct deposit of benefit payments in an account in a bank,
44 savings and loan association or credit union if the arrangement is not part
45 of an arrangement constituting an assignment or alienation.

1 D. Neither The employers, the ~~fund-manager~~ BOARD OF TRUSTEES, the ~~fund~~
2 ~~manager's~~ BOARD OF TRUSTEES' administrator, assistant administrators and
3 employees ~~or~~ AND any member of a local board ~~guarantees~~ DO NOT GUARANTEE the
4 fund in any manner against loss or depreciation, and none of them shall be
5 liable for any act or failure to act, ~~which~~ THAT is made in good faith
6 pursuant to the provisions of the system. The employers shall not be
7 responsible for any act or failure to act of a local board or any of its
8 members or for any act or failure to act of the ~~fund-manager~~ BOARD OF
9 TRUSTEES. A local board and the individual members of a local board shall
10 not be responsible for any act or failure to act of any employer or the ~~fund~~
11 ~~manager~~ BOARD OF TRUSTEES.

12 E. The ~~fund-manager~~ BOARD, in its discretion, may make payment to a
13 person entitled to any payment under the system who is under a legal
14 disability in any one or more of the following ways:

- 15 1. Directly to such person.
16 2. To his legal guardian or conservator.
17 3. To his spouse or to any other person charged with his support to be
18 expended for his benefit.

19 F. If, through misstatement or computation error, benefits are
20 underpaid or overpaid, there is no liability for any more than the correct
21 benefit sums under the system. Overpayments may be deducted from future
22 payments under the system, and underpayments may be added to future payments
23 under the system. A member or other benefit recipient may elect to repay in
24 a lump sum any overpayment in lieu of receiving reduced benefits under the
25 system.

26 G. Nothing in this section exempts employee benefits of any kind from
27 a writ of attachment, a writ of execution, a writ of garnishment and orders
28 of assignment issued by a court of record which are the result of a judgment
29 taken for arrearages for child support or for a child support debt or
30 restitution or fines imposed in accordance with section 38-849, subsection A.

31 Sec. 47. Section 38-851, Arizona Revised Statutes, is amended to read:
32 38-851. Participation of new employers

33 A. This state, any municipality, county or other political subdivision
34 of the state, any Indian tribe or any public or quasi-public organization
35 created wholly or partly by, or deriving its powers from, the legislature,
36 may request to become a participating employer in the system on behalf of a
37 designated eligible employee group. Such a request shall be made by the
38 state departmental director or after a proper resolution has been adopted by
39 the governing body of the political subdivision, Indian tribe or public
40 organization, and after such resolution has been approved by any other party
41 or officer required by law to approve the resolution. A certified copy of
42 such resolution shall be filed with the ~~fund-manager~~ BOARD. This state or
43 the political subdivision, Indian tribe or public organization shall be
44 considered as a participating employer ~~upon~~ ON proper execution of a joinder
45 agreement in which the employer unconditionally accepts the provisions of the

1 system and binds the employer's designated eligible employees to those
2 provisions. All members of an eligible group shall be designated for
3 membership, unless written consent to the contrary is obtained from the ~~fund~~
4 ~~manager~~ BOARD. A member shall be qualified for participation in order to
5 obtain written consent to the contrary from the ~~fund-manager~~ BOARD.

6 B. The effective date of participation in the system by this state or
7 a political subdivision, Indian tribe or public organization shall be the
8 July 1 next succeeding the approval of its participation, unless the ~~fund~~
9 ~~manager~~ BOARD consents to another date, as shall be specifically stipulated
10 in the joinder agreement.

11 C. The new employer shall designate the departments, groups or other
12 classifications of public safety employees ~~which shall be~~ THAT ARE eligible
13 to participate in the system and shall agree to make contributions each year
14 ~~which shall be~~ THAT ARE sufficient to meet both the normal cost on a level
15 cost method attributable to inclusion of its employees and the prescribed
16 interest on the past service cost for its employees.

17 D. This state or any political subdivision, Indian tribe or public
18 organization ~~which~~ THAT is contemplating participation in the system shall
19 request a preliminary actuarial survey to determine the estimated cost of
20 participation, the benefits to be derived and such other information as may
21 be deemed appropriate. The cost of such a survey shall be paid by this state
22 or the political subdivision, Indian tribe or public organization requesting
23 it.

24 E. As a condition to participation in the system an Indian tribe
25 employer, by resolution of the governing body, shall:

26 1. Agree that all disputes involving interpretation of state statutes
27 involving the system, and any amendments to such statutes, will be resolved
28 through the court system of this state.

29 2. Agree to be bound by state statutes and laws ~~which~~ THAT regulate
30 and interpret the provisions of the system, including eligibility to
31 membership in the system, service credits and the rights of any claimant to
32 benefits and the amount of such benefits.

33 3. Agree to meet any requirement ~~which~~ THAT the ~~fund-manager~~ BOARD may
34 prescribe to ensure timely payment of member and employer contributions and
35 any other amounts due from the employer to the system.

36 4. Include in the joinder agreement any other provision deemed
37 necessary by the ~~fund-manager~~ BOARD for the administration or enforcement of
38 the agreement.

39 F. Assets under any existing public employee defined benefit
40 retirement program, except a military retirement program, necessary to equal
41 the actuarial present value of projected benefits to the extent funded on a
42 market value basis as of the most recent actuarial valuation attributable to
43 the employer's designated employee group, calculated using the actuarial
44 methods and assumptions adopted by the existing public employee retirement
45 program, shall be transferred from such program to this fund no later than

1 sixty days after the employer's effective date. That portion of the
2 transferred assets ~~which~~ THAT is attributable to employee contributions,
3 including interest credits thereon, shall be properly allocated to each
4 affected employee of the employer and credited to the employee's initial
5 accumulated contributions, in accordance with a schedule furnished by the
6 employer to the ~~fund-manager~~ BOARD.

7 Sec. 48. Section 38-853, Arizona Revised Statutes, is amended to read:

8 38-853. Transfer of credited service

9 A. A member who terminates employment with an employer and accepts,
10 within two years, a position with the same or another employer participating
11 in the system shall have the member's credited service transferred to the
12 member's record with the new employer provided the member leaves the member's
13 accumulated contributions on deposit with the fund. The termination of
14 employment shall not constitute a break in service. However, the period not
15 employed shall not be considered as service.

16 B. The new employer's account shall be credited with the member's
17 accumulated contributions plus the amount, if any, necessary to equal the
18 increase in the actuarial present value of projected benefits to the extent
19 funded on a market value basis as of the most recent actuarial valuation
20 resulting from the transfer as calculated by the system's actuary using the
21 actuarial methods and assumptions adopted by the ~~fund-manager~~ BOARD.

22 Sec. 49. Section 38-853.01, Arizona Revised Statutes, is amended to
23 read:

24 38-853.01. Redemption of prior service

25 A. Each present active member of the system may elect to redeem any
26 part of the following prior service or employment by paying into the system
27 any amounts required under subsection B if the prior service or employment is
28 not on account with any other retirement system:

29 1. Prior service in this state as an employee with an employer now
30 covered by the system or prior service with an agency of the United States
31 government, a state of the United States or a political subdivision of a
32 state of the United States as a full-time paid firefighter or full-time paid
33 certified peace officer.

34 2. Subject to any limitations prescribed by federal law, prior
35 employment as an employee with a corporation that contracted with an employer
36 now covered by the system to provide firefighting services on behalf of that
37 employer as a full-time paid firefighter.

38 B. Any present active member who elects to redeem any part of the
39 prior service or employment for which the employee is deemed eligible by the
40 ~~fund-manager~~ BOARD under this section shall pay into the system the amounts
41 previously withdrawn by the member, if any, as a refund of the member's
42 accumulated contributions plus accumulated interest as determined by the ~~fund~~
43 ~~manager~~ BOARD and the additional amount, if any, computed by the system's
44 actuary that is necessary to equal the increase in the actuarial present

1 value of projected benefits resulting from the redemption calculated using
2 the actuarial methods and assumptions prescribed by the system's actuary.

3 C. A member electing to redeem service pursuant to this section may
4 pay for service being redeemed in the form of a lump sum payment to the
5 system, a trustee-to-trustee transfer or a direct rollover of an eligible
6 distribution from a plan described in section 402(c)(8)(B)(iii), (iv), (v) or
7 (vi) of the internal revenue code or a rollover of an eligible distribution
8 from an individual retirement account or annuity described in section 408(a)
9 or (b) of the internal revenue code.

10 Sec. 50. Section 38-855, Arizona Revised Statutes, is amended to read:

11 38-855. Transfer outside the public safety personnel retirement
12 system

13 A member who changes employment or transfers or is assigned to a
14 position in which such member is no longer eligible to be a member of this
15 system, because of a change in duties or otherwise, with the same or another
16 public employer of this state maintaining a retirement program for public
17 officers or employees authorized by law may have all credited service
18 transferred to the retirement system or program applicable to the new
19 position. If the member does not transfer credited service as provided in
20 this section within two years after the change in employment or transfer, the
21 member shall request a refund of member contributions or shall have the
22 credited service transferred pursuant to this section. Any transfer of
23 credited service pursuant to this section to a state retirement system or
24 plan shall be made pursuant to article 7 of this chapter and must be approved
25 by the ~~fund-manager~~ BOARD.

26 Sec. 51. Section 38-856.01, Arizona Revised Statutes, is amended to
27 read:

28 38-856.01. Lump sum payment of benefit increases

29 Notwithstanding any provision of this article, the ~~fund-manager~~ BOARD,
30 at the request of a retired member, a survivor or the retired member's or
31 survivor's guardian or conservator, may pay any increase in retirement
32 benefits pursuant to this article in a lump sum payment based on the
33 actuarial present value of the increase in the retirement benefits if the
34 payment of the increase in retirement benefits would result in ineligibility
35 for, reduction of or elimination of social service programs provided to the
36 retired member or survivor by this state, a political subdivision of this
37 state or the federal government. Lump sum payments made pursuant to this
38 section are eligible for a direct rollover distribution.

39 Sec. 52. Section 38-857, Arizona Revised Statutes, is amended to read:

40 38-857. Group health and accident coverage for retired members;
41 payment

42 A. ~~The fund-manager of the public safety personnel retirement system~~
43 BOARD shall pay part of the single coverage premium of any group health and
44 accident insurance for each retired member or survivor of the system who
45 receives a pension and who has elected to participate in the coverage

1 provided by section 38-651.01 or 38-782 or any other health and accident
2 insurance coverage provided or administered by a participating employer of
3 the system. The ~~fund manager~~ BOARD shall pay up to:

4 1. One hundred fifty dollars per month for each retired member or
5 survivor of the system who is not eligible for medicare.

6 2. One hundred dollars per month for each retired member or survivor
7 of the system who is eligible for medicare.

8 B. The ~~fund manager of the system~~ BOARD shall pay from assets of the
9 fund part of the family coverage premium of any group health and accident
10 insurance each month for a benefit recipient who elects family coverage and
11 otherwise qualifies for payment pursuant to subsection A of this section.
12 The ~~fund manager~~ BOARD shall pay up to:

13 1. Two hundred sixty dollars per month if the retired member or
14 survivor of the system and one or more dependents are not eligible for
15 medicare.

16 2. One hundred seventy dollars per month if the retired member or
17 survivor of the system and one or more dependents are eligible for medicare.

18 3. Two hundred fifteen dollars per month if either:

19 (a) The retired member or survivor of the system is not eligible for
20 medicare and one or more dependents are eligible for medicare.

21 (b) The retired member or survivor of the system is eligible for
22 medicare and one or more dependents are not eligible for medicare.

23 C. The ~~fund manager~~ BOARD shall not pay from assets of the fund more
24 than the amount prescribed in this section for a benefit recipient as a
25 member or survivor of the system.

26 D. This section does not apply to a retired member or survivor of the
27 system who is reemployed by this state or a political subdivision of this
28 state and who participates in coverage provided by this state or a political
29 subdivision of this state as an active employee.

30 E. ~~In addition to the payments provided by subsection A of this~~
31 ~~section, through June 30, 2005, the fund manager shall pay an insurance~~
32 ~~premium benefit for medical coverage, not including limited benefit coverage~~
33 ~~as defined in section 20-1137, for each retired member or survivor of the~~
34 ~~system who is entitled to a premium benefit payment pursuant to subsection A~~
35 ~~of this section and who lives in a nonservice area as follows:~~

36 1. ~~Up to three hundred dollars per month for a retired member or~~
37 ~~survivor of the system who is not eligible for medicare. To qualify for this~~
38 ~~additional benefit, a retired member or survivor shall pay out of pocket~~
39 ~~medical insurance premiums of at least one hundred twenty five dollars per~~
40 ~~month.~~

41 2. ~~Up to one hundred seventy dollars per month for a retired member or~~
42 ~~survivor of the system who is eligible for medicare. To qualify for this~~
43 ~~additional benefit, a retired member or survivor shall pay out of pocket~~
44 ~~medical insurance premiums of at least one hundred dollars per month.~~

1 ~~F. In addition to the payments provided by subsection B of this~~
2 ~~section, through June 30, 2005, the fund manager shall pay an insurance~~
3 ~~premium benefit for medical coverage, not including limited benefit coverage~~
4 ~~as defined in section 20-1137, for a retired member or survivor of the system~~
5 ~~who is entitled to a premium benefit payment pursuant to subsection B of this~~
6 ~~section, who is enrolled in a family medical plan and who lives in a~~
7 ~~nonservice area as follows:~~

8 ~~1. Up to six hundred dollars per month if the retired member or~~
9 ~~survivor of the system and one or more dependents are not eligible for~~
10 ~~medicare. To qualify for this additional benefit, a retired member or~~
11 ~~survivor shall pay out of pocket medical insurance premiums of at least four~~
12 ~~hundred twenty-five dollars per month.~~

13 ~~2. Up to three hundred fifty dollars per month if the retired member~~
14 ~~or survivor of the system and one or more dependents are eligible for~~
15 ~~medicare. To qualify for this additional benefit, a retired member or~~
16 ~~survivor shall pay out of pocket medical insurance premiums of at least two~~
17 ~~hundred dollars per month.~~

18 ~~3. Up to four hundred seventy dollars per month if either:~~

19 ~~(a) The retired member or survivor of the system is not eligible for~~
20 ~~medicare and one or more dependents are eligible for Medicare.~~

21 ~~(b) The retired member or survivor of the system is eligible for~~
22 ~~medicare and one or more dependents are not eligible for Medicare.~~
23 ~~To qualify for this additional benefit, a retired member or survivor shall~~
24 ~~pay out of pocket medical insurance premiums of at least four hundred dollars~~
25 ~~per month.~~

26 ~~G. In addition to the payments provided by subsection A of this~~
27 ~~section, beginning July 1, 2005 through June 30, 2009, the fund manager shall~~
28 ~~pay an insurance premium benefit for medical coverage, not including limited~~
29 ~~benefit coverage as defined in section 20-1137, for each Medicare eligible~~
30 ~~retired member or survivor of the system who is entitled to a premium benefit~~
31 ~~payment pursuant to subsection A of this section and who lives in a~~
32 ~~nonservice area of up to one hundred seventy dollars per month for a retired~~
33 ~~member or survivor of the system who is eligible for Medicare. To qualify~~
34 ~~for this additional benefit, a retired member or survivor shall pay~~
35 ~~out of pocket medical insurance premiums of at least one hundred dollars per~~
36 ~~month.~~

37 ~~H. In addition to the payments provided by subsection B of this~~
38 ~~section, beginning July 1, 2005 through June 30, 2009, the fund manager shall~~
39 ~~pay an insurance premium benefit for medical coverage, not including limited~~
40 ~~benefit coverage as defined in section 20-1137, for a Medicare eligible~~
41 ~~retired member or survivor of the system who is entitled to a premium benefit~~
42 ~~payment pursuant to subsection B of this section, who is enrolled in a family~~
43 ~~medical plan and who lives in a nonservice area as follows:~~

44 ~~1. Up to three hundred fifty dollars per month if the retired member~~
45 ~~or survivor of the system and one or more dependents are eligible for~~

1 ~~medicare. To qualify for this additional benefit, a retired member or~~
2 ~~survivor shall pay out of pocket medical insurance premiums of at least two~~
3 ~~hundred dollars per month.~~

4 ~~2. Up to four hundred seventy dollars per month if the retired member~~
5 ~~or survivor of the system is eligible for medicare and one or more dependents~~
6 ~~are not eligible for medicare. To qualify for this additional benefit, a~~
7 ~~retired member or survivor shall pay out of pocket medical insurance premiums~~
8 ~~of at least four hundred dollars per month.~~

9 ~~I. A retired member or survivor of the system who is enrolled in a~~
10 ~~managed care program in a nonservice area is not eligible for the payment~~
11 ~~prescribed in subsection E, F, G or H of this section.~~

12 ~~J. E. A retired member or survivor of the system may elect to~~
13 ~~purchase individual health care coverage and receive a payment pursuant to~~
14 ~~this section through the retired member's employer if that employer assumes~~
15 ~~the administrative functions associated with the payment, including~~
16 ~~verification that the payment is used to pay for health insurance coverage if~~
17 ~~the payment is made to the retired member or survivor of the system.~~

18 ~~K. For the purposes of this section, "nonservice area" means an area~~
19 ~~in this state in which the Arizona state retirement system pursuant to~~
20 ~~section 38-782, the department of administration pursuant to section~~
21 ~~38-651.01 or the member's or survivor's participating employer does not~~
22 ~~provide or administer a health care services organization program, excluding~~
23 ~~any preferred provider organization program or individual health indemnity~~
24 ~~policy, for which the retired member or survivor of the system is eligible.~~

25 ~~Sec. 53. Section 38-881, Arizona Revised Statutes, as amended by Laws~~
26 ~~2009, chapter 35, section 21 and chapter 83, section 1, is amended to read:~~

27 ~~38-881. Definitions~~

28 ~~In this article, unless the context otherwise requires:~~

29 ~~1. "Accidental disability" means a physical or mental condition that~~
30 ~~the local board finds totally and permanently prevents an employee from~~
31 ~~performing a reasonable range of duties within the employee's department, was~~
32 ~~incurred in the performance of the employee's duties and was the result of~~
33 ~~any of the following:~~

34 ~~(a) Physical contact with inmates, prisoners, parolees or persons on~~
35 ~~probation.~~

36 ~~(b) Responding to a confrontational situation with inmates, prisoners,~~
37 ~~parolees or persons on probation.~~

38 ~~(c) A job related motor vehicle accident while on official business~~
39 ~~for the employee's employer. A job related motor vehicle accident does not~~
40 ~~include an accident that occurs on the way to or from work. Persons found~~
41 ~~guilty of violating a personnel rule, a rule established by the employee's~~
42 ~~employer or a state or federal law in connection with a job related motor~~
43 ~~vehicle accident do not meet the conditions for accidental disability.~~

44 ~~2. "Accumulated member contributions" means for each member the sum of~~
45 ~~the amount of all the member's contributions deducted from the member's~~

1 salary and paid to the fund, plus member contributions transferred to the
2 fund by another retirement plan covering public employees of this state, plus
3 previously withdrawn accumulated member contributions that are repaid to the
4 fund in accordance with this article, minus any benefits paid to or on behalf
5 of a member.

6 3. "Actuarial equivalent" means equality in present value of the
7 aggregate amounts expected to be received under two different forms of
8 payment, based on mortality and interest assumptions adopted by the ~~fund~~
9 manager BOARD.

10 4. "Alternate payee" means the spouse or former spouse of a
11 participant as designated in a domestic relations order.

12 5. "Alternate payee's portion" means benefits that are payable to an
13 alternate payee pursuant to a plan approved domestic relations order.

14 6. "Annuitant" means a person who is receiving a benefit pursuant to
15 section 38-911.

16 7. "Average monthly salary" means one-thirty-sixth of the aggregate
17 amount of salary that is paid a member by a participating employer during a
18 period of thirty-six consecutive months of service in which the member
19 received the highest salary within the last one hundred twenty months of
20 service. Average monthly salary means the aggregate amount of salary that is
21 paid a member divided by the member's months of service if the member has
22 less than thirty-six months of service. In the computation under this
23 paragraph, a period of nonpaid or partially paid industrial leave shall be
24 considered based on the salary the employee would have received in the
25 employee's job classification if the employee was not on industrial leave.

26 8. "Beneficiary" means an individual who is being paid or who has
27 entitlement to the future payment of a pension on account of a reason other
28 than the individual's membership in the retirement plan.

29 9. "BOARD" MEANS THE BOARD OF TRUSTEES OF THE PUBLIC SAFETY PERSONNEL
30 RETIREMENT SYSTEM.

31 ~~9.~~ 10. "Claimant" means a member, beneficiary or estate that files an
32 application for benefits with the retirement plan.

33 ~~10.~~ 11. "Credited service" means credited service transferred to the
34 retirement plan from another retirement system or plan for public employees
35 of this state, plus those compensated periods of service as a member of the
36 retirement plan for which member contributions are on deposit in the fund.

37 ~~11.~~ 12. "Cure period" means the ninety-day period in which a
38 participant or alternate payee may submit an amended domestic relations order
39 and request a determination, calculated from the time the plan issues a
40 determination finding that a previously submitted domestic relations order
41 did not qualify as a plan approved domestic relations order.

42 ~~12.~~ 13. "Designated position" means:

43 (a) For a county:

44 (i) A county detention officer.

1 (ii) A nonuniformed employee of a sheriff's department whose primary
2 duties require direct contact with inmates.

3 (b) For the state department of corrections and the department of
4 juvenile corrections, only the following specifically designated positions:

5 (i) Food service.

6 (ii) Nursing personnel.

7 (iii) Corrections physician assistant.

8 (iv) Therapist.

9 (v) Corrections dental assistant.

10 (vi) Hygienist.

11 (vii) Corrections medical assistant.

12 (viii) Correctional service officer, including assistant deputy
13 warden, deputy warden, warden and superintendent.

14 (ix) State correctional program officer.

15 (x) Parole or community supervision officers.

16 (xi) Investigators.

17 (xii) Teachers.

18 (xiii) Institutional maintenance workers.

19 (xiv) Youth corrections officer.

20 (xv) Youth program officer.

21 (xvi) Behavioral health treatment unit managers.

22 (xvii) The director and assistant directors of the department of
23 juvenile corrections and the superintendent of the state educational system
24 for committed youth.

25 (xviii) The director, deputy directors and assistant directors of the
26 state department of corrections.

27 (xix) Other positions designated by the local board of the state
28 department of corrections or the local board of the department of juvenile
29 corrections pursuant to section 38-891.

30 (c) For a city or town, a city or town detention officer.

31 (d) For an employer of an eligible group as defined in section 38-842,
32 full-time dispatchers.

33 (e) For the judiciary, probation, surveillance and juvenile detention
34 officers and those positions designated by the local board of the judiciary
35 pursuant to section 38-891.

36 (f) For the department of public safety, state detention officers.

37 ~~13-~~ 14. "Determination" means a written document that indicates to a
38 participant and alternate payee whether a domestic relations order qualifies
39 as a plan approved domestic relations order.

40 ~~14-~~ 15. "Determination period" means the ninety-day period in which
41 the plan must review a domestic relations order that is submitted by a
42 participant or alternate payee to determine whether the domestic relations
43 order qualifies as a plan approved domestic relations order, calculated from
44 the time the plan mails a notice of receipt to the participant and alternate
45 payee.

1 ~~15.~~ 16. "Direct rollover" means a payment by the plan to an eligible
2 retirement plan that is specified by the distributee.

3 ~~16.~~ 17. "Distributee" means a member, a member's surviving spouse or a
4 member's spouse or former spouse who is the alternate payee under a plan
5 approved domestic relations order.

6 ~~17.~~ 18. "Domestic relations order" means an order of a court of this
7 state that is made pursuant to the domestic relations laws of this state and
8 that creates or recognizes the existence of an alternate payee's right to, or
9 assigns to an alternate payee the right to, receive a portion of the benefits
10 payable to a participant.

11 ~~18.~~ 19. "Eligible child" means an unmarried child of a deceased active
12 or retired member who meets one of the following qualifications:

13 (a) Is under eighteen years of age.

14 (b) Is at least eighteen years of age and under twenty-three years of
15 age only during any period that the child is a full-time student.

16 (c) Is under a disability that began before the child attained
17 twenty-three years of age and remains a dependent of the surviving spouse or
18 guardian.

19 ~~19.~~ 20. "Eligible retirement plan" means any of the following that
20 accepts a distributee's eligible rollover distribution:

21 (a) An individual retirement account described in section 408(a) of
22 the internal revenue code.

23 (b) An individual retirement annuity described in section 408(b) of
24 the internal revenue code.

25 (c) An annuity plan described in section 403(a) of the internal
26 revenue code.

27 (d) A qualified trust described in section 401(a) of the internal
28 revenue code.

29 (e) An annuity contract described in section 403(b) of the internal
30 revenue code.

31 (f) An eligible deferred compensation plan described in section 457(b)
32 of the internal revenue code that is maintained by a state, a political
33 subdivision of a state or any agency or instrumentality of a state or a
34 political subdivision of a state and that agrees to separately account for
35 amounts transferred into the eligible deferred compensation plan from this
36 plan.

37 ~~20.~~ 21. "Eligible rollover distribution" means a payment to a
38 distributee, but does not include any of the following:

39 (a) Any distribution that is one of a series of substantially equal
40 periodic payments made not less frequently than annually for the life or life
41 expectancy of the member or the joint lives or joint life expectancies of the
42 member and the member's beneficiary or for a specified period of ten years or
43 more.

44 (b) Any distribution to the extent the distribution is required under
45 section 401(a)(9) of the internal revenue code.

1 (c) The portion of any distribution that is not includable in gross
2 income.

3 ~~21.~~ 22. "Employee" means a person employed by a participating employer
4 in a designated position.

5 ~~22.~~ 23. "Employer" means an agency or department of this state or a
6 political subdivision of this state that has one or more employees in a
7 designated position.

8 ~~23.~~ 24. "Fund" means the corrections officer retirement plan fund.

9 ~~24. "Fund manager" means the fund manager of the public safety~~
10 ~~personnel retirement system.~~

11 25. "Juvenile detention officer" means a juvenile detention officer
12 responsible for the direct custodial supervision of juveniles who are
13 detained in a county juvenile detention center.

14 26. "Local board" means the retirement board of the employer that
15 consists of persons appointed or elected to administer the plan as it applies
16 to the employer's members in the plan.

17 27. "Member" means any employee who meets all of the following
18 qualifications:

19 (a) Who is a full-time paid person employed by a participating
20 employer in a designated position.

21 (b) Who is receiving salary for personal services rendered to a
22 participating employer or would be receiving salary except for an authorized
23 leave of absence.

24 (c) Whose customary employment is at least forty hours each week.

25 28. "Normal retirement date" means the first day of the calendar month
26 immediately following an employee's completion of twenty years of service or,
27 in the case of a dispatcher, twenty-five years of service, the employee's
28 sixty-second birthday and completion of ten years of service or the month in
29 which the sum of the employee's age and years of credited service equals
30 eighty.

31 29. "Notice of receipt" means a written document that is issued by the
32 plan to a participant and alternate payee and that states that the plan has
33 received a domestic relations order and a request for a determination that
34 the domestic relations order is a plan approved domestic relations order.

35 30. "Ordinary disability" means a physical condition that the local
36 board determines will totally and permanently prevent an employee from
37 performing a reasonable range of duties within the employee's department or a
38 mental condition that the local board determines will totally and permanently
39 prevent an employee from engaging in any substantial gainful activity.

40 31. "Participant" means a member who is subject to a domestic relations
41 order.

42 32. "Participant's portion" means benefits that are payable to a
43 participant pursuant to a plan approved domestic relations order.

44 33. "Participating employer" means an employer that the ~~fund manager~~
45 BOARD has determined to have one or more employees in a designated position

1 or a county, city, town or department of this state that has entered into a
2 joinder agreement pursuant to section 38-902.

3 34. "Pension" means a series of monthly payments by the retirement plan
4 but does not include an annuity that is payable pursuant to section 38-911.

5 35. "Personal representative" means the personal representative of a
6 deceased alternate payee.

7 36. "Plan approved domestic relations order" means a domestic relations
8 order that the plan approves as meeting all the requirements for a plan
9 approved domestic relations order as otherwise prescribed in this article.

10 37. "Probation or surveillance officer" means an officer appointed
11 pursuant to section 8-203, 12-251 or 12-259 but does not include other
12 personnel, office assistants or support staff.

13 38. "Retired member" means an individual who terminates employment and
14 who is receiving a pension pursuant to either section 38-885 or 38-886.

15 39. "Retirement" or "retired" means termination of employment after a
16 member has fulfilled all requirements for a pension.

17 40. "Retirement plan" or "plan" means the corrections officer
18 retirement plan established by this article.

19 41. "Salary" means the base salary, shift differential pay, military
20 differential wage pay and holiday pay paid a member for personal services
21 rendered in a designated position to a participating employer on a regular
22 monthly, semimonthly or biweekly payroll basis. Salary includes amounts that
23 are subject to deferred compensation or tax shelter agreements. Salary does
24 not include payment for any remuneration or reimbursement other than as
25 prescribed by this paragraph. For the purposes of this paragraph, "base
26 salary" means the amount of compensation each member is regularly paid for
27 personal services rendered to an employer before the addition of any extra
28 monies, including overtime pay, shift differential pay, holiday pay, fringe
29 benefit pay and similar extra payments.

30 42. "Segregated funds" means the amount of benefits that would
31 currently be payable to an alternate payee pursuant to a domestic relations
32 order under review by the plan, or a domestic relations order submitted to
33 the plan that failed to qualify as a plan approved domestic relations order,
34 if the domestic relations order were determined to be a plan approved
35 domestic relations order.

36 43. "Service" means employment rendered to a participating employer as
37 an employee in a designated position. Any absence that is authorized by an
38 employer, including any periods during which the employee is on an employer
39 sponsored long-term disability program, is considered as service if the
40 employee returns or is deemed by the employer to have returned to a
41 designated position within the period of the authorized absence.

42 44. "Total and permanent disability" means a physical or mental
43 condition that is not an accidental disability, that the local board finds
44 totally and permanently prevents a member from engaging in any gainful

1 employment and that is the direct and proximate result of the member's
2 performance of the member's duty as an employee of a participating employer.

3 Sec. 54. Section 38-881, Arizona Revised Statutes, as amended by Laws
4 2009, chapter 35, section 22 and chapter 83, section 2, is amended effective
5 on the date prescribed in Laws 2005, chapter 324, section 2, but only on the
6 occurrence of the condition prescribed by Laws 2005, chapter 324, section 2,
7 to read:

8 38-881. Definitions

9 In this article, unless the context otherwise requires:

10 1. "Accidental disability" means a physical or mental condition that
11 the local board finds totally and permanently prevents an employee from
12 performing a reasonable range of duties within the employee's department, was
13 incurred in the performance of the employee's duties and was the result of
14 any of the following:

15 (a) Physical contact with inmates, prisoners, parolees or persons on
16 probation.

17 (b) Responding to a confrontational situation with inmates, prisoners,
18 parolees or persons on probation.

19 (c) A job related motor vehicle accident while on official business
20 for the employee's employer. A job related motor vehicle accident does not
21 include an accident that occurs on the way to or from work. Persons found
22 guilty of violating a personnel rule, a rule established by the employee's
23 employer or a state or federal law in connection with a job related motor
24 vehicle accident do not meet the conditions for accidental disability.

25 2. "Accumulated member contributions" means for each member the sum of
26 the amount of all the member's contributions deducted from the member's
27 salary and paid to the fund, plus member contributions transferred to the
28 fund by another retirement plan covering public employees of this state, plus
29 previously withdrawn accumulated member contributions that are repaid to the
30 fund in accordance with this article, minus any benefits paid to or on behalf
31 of a member.

32 3. "Actuarial equivalent" means equality in present value of the
33 aggregate amounts expected to be received under two different forms of
34 payment, based on mortality and interest assumptions adopted by the fund
35 manager BOARD.

36 4. "Alternate payee" means the spouse or former spouse of a
37 participant as designated in a domestic relations order.

38 5. "Alternate payee's portion" means benefits that are payable to an
39 alternate payee pursuant to a plan approved domestic relations order.

40 6. "Annuitant" means a person who is receiving a benefit pursuant to
41 section 38-911.

42 7. "Average monthly salary" means one-thirty-sixth of the aggregate
43 amount of salary that is paid a member by a participating employer during a
44 period of thirty-six consecutive months of service in which the member
45 received the highest salary within the last one hundred twenty months of

1 service. Average monthly salary means the aggregate amount of salary that is
2 paid a member divided by the member's months of service if the member has
3 less than thirty-six months of service. In the computation under this
4 paragraph, a period of nonpaid or partially paid industrial leave shall be
5 considered based on the salary the employee would have received in the
6 employee's job classification if the employee was not on industrial leave.

7 8. "Beneficiary" means an individual who is being paid or who has
8 entitlement to the future payment of a pension on account of a reason other
9 than the individual's membership in the retirement plan.

10 9. "BOARD" MEANS THE BOARD OF TRUSTEES OF THE PUBLIC SAFETY PERSONNEL
11 RETIREMENT SYSTEM.

12 ~~9.~~ 10. "Claimant" means a member, beneficiary or estate that files an
13 application for benefits with the retirement plan.

14 ~~10.~~ 11. "Credited service" means credited service transferred to the
15 retirement plan from another retirement system or plan for public employees
16 of this state, plus those compensated periods of service as a member of the
17 retirement plan for which member contributions are on deposit in the fund.

18 ~~11.~~ 12. "Cure period" means the ninety-day period in which a
19 participant or alternate payee may submit an amended domestic relations order
20 and request a determination, calculated from the time the plan issues a
21 determination finding that a previously submitted domestic relations order
22 did not qualify as a plan approved domestic relations order.

23 ~~12.~~ 13. "Designated position" means:

24 (a) For a county:

25 (i) A county detention officer.

26 (ii) A nonuniformed employee of a sheriff's department whose primary
27 duties require direct contact with inmates.

28 (b) For the state department of corrections and the department of
29 juvenile corrections, only the following specifically designated positions:

30 (i) Food service.

31 (ii) Nursing personnel.

32 (iii) Corrections physician assistant.

33 (iv) Therapist.

34 (v) Corrections dental assistant.

35 (vi) Hygienist.

36 (vii) Corrections medical assistant.

37 (viii) Correctional service officer, including assistant deputy
38 warden, deputy warden, warden and superintendent.

39 (ix) State correctional program officer.

40 (x) Parole or community supervision officers.

41 (xi) Investigators.

42 (xii) Teachers.

43 (xiii) Institutional maintenance workers.

44 (xiv) Youth corrections officer.

45 (xv) Youth program officer.

- 1 (xvi) Behavioral health treatment unit managers.
- 2 (xvii) The director and assistant directors of the department of
3 juvenile corrections and the superintendent of the state educational system
4 for committed youth.
- 5 (xviii) The director, deputy directors and assistant directors of the
6 state department of corrections.
- 7 (xix) Other positions designated by the local board of the state
8 department of corrections or the local board of the department of juvenile
9 corrections pursuant to section 38-891.
- 10 (c) For a city or town, a city or town detention officer.
- 11 (d) For an employer of an eligible group as defined in section 38-842,
12 full-time dispatchers.
- 13 (e) For the judiciary, probation, surveillance and juvenile detention
14 officers and those positions designated by the local board of the judiciary
15 pursuant to section 38-891.
- 16 (f) For the department of public safety, state detention officers.
- 17 ~~13.~~ 14. "Determination" means a written document that indicates to a
18 participant and alternate payee whether a domestic relations order qualifies
19 as a plan approved domestic relations order.
- 20 ~~14.~~ 15. "Determination period" means the ninety-day period in which
21 the plan must review a domestic relations order that is submitted by a
22 participant or alternate payee to determine whether the domestic relations
23 order qualifies as a plan approved domestic relations order, calculated from
24 the time the plan mails a notice of receipt to the participant and alternate
25 payee.
- 26 ~~15.~~ 16. "Direct rollover" means a payment by the plan to an eligible
27 retirement plan that is specified by the distributee.
- 28 ~~16.~~ 17. "Distributee" means a member, a member's surviving spouse or a
29 member's spouse or former spouse who is the alternate payee under a plan
30 approved domestic relations order.
- 31 ~~17.~~ 18. "Domestic relations order" means an order of a court of this
32 state that is made pursuant to the domestic relations laws of this state and
33 that creates or recognizes the existence of an alternate payee's right to, or
34 assigns to an alternate payee the right to, receive a portion of the benefits
35 payable to a participant.
- 36 ~~18.~~ 19. "Eligible child" means an unmarried child of a deceased active
37 or retired member who meets one of the following qualifications:
- 38 (a) Is under eighteen years of age.
- 39 (b) Is at least eighteen years of age and under twenty-three years of
40 age only during any period that the child is a full-time student.
- 41 (c) Is under a disability that began before the child attained
42 twenty-three years of age and remains a dependent of the surviving spouse or
43 guardian.
- 44 ~~19.~~ 20. "Eligible retirement plan" means any of the following that
45 accepts a distributee's eligible rollover distribution:

1 (a) An individual retirement account described in section 408(a) of
2 the internal revenue code.

3 (b) An individual retirement annuity described in section 408(b) of
4 the internal revenue code.

5 (c) An annuity plan described in section 403(a) of the internal
6 revenue code.

7 (d) A qualified trust described in section 401(a) of the internal
8 revenue code.

9 (e) An annuity contract described in section 403(b) of the internal
10 revenue code.

11 (f) An eligible deferred compensation plan described in section 457(b)
12 of the internal revenue code that is maintained by a state, a political
13 subdivision of a state or any agency or instrumentality of a state or a
14 political subdivision of a state and that agrees to separately account for
15 amounts transferred into the eligible deferred compensation plan from this
16 plan.

17 ~~20.~~ 21. "Eligible rollover distribution" means a payment to a
18 distributee, but does not include any of the following:

19 (a) Any distribution that is one of a series of substantially equal
20 periodic payments made not less frequently than annually for the life or life
21 expectancy of the member or the joint lives or joint life expectancies of the
22 member and the member's beneficiary or for a specified period of ten years or
23 more.

24 (b) Any distribution to the extent the distribution is required under
25 section 401(a)(9) of the internal revenue code.

26 (c) The portion of any distribution that is not includable in gross
27 income.

28 ~~21.~~ 22. "Employee" means a person employed by a participating employer
29 in a designated position.

30 ~~22.~~ 23. "Employer" means an agency or department of this state or a
31 political subdivision of this state that has one or more employees in a
32 designated position.

33 ~~23.~~ 24. "Fund" means the corrections officer retirement plan fund.

34 ~~24.~~ "Fund manager" means the fund manager of the public safety
35 personnel retirement system.

36 25. "Juvenile detention officer" means a JUVENILE detention officer
37 responsible for the direct custodial supervision of juveniles who are
38 detained in a county juvenile detention center.

39 26. "Local board" means the retirement board of the employer that
40 consists of persons appointed or elected to administer the plan as it applies
41 to the employer's members in the plan.

42 27. "Member" means any employee who meets all of the following
43 qualifications:

44 (a) Who is a full-time paid person employed by a participating
45 employer in a designated position.

1 (b) Who is receiving salary for personal services rendered to a
2 participating employer or would be receiving salary except for an authorized
3 leave of absence.

4 (c) Whose customary employment is at least forty hours each week.

5 28. "Normal retirement date" means the first day of the calendar month
6 immediately following an employee's completion of twenty years of service or,
7 in the case of a dispatcher, twenty-five years of service, the employee's
8 sixty-second birthday and completion of ten years of service or the month in
9 which the sum of the employee's age and years of credited service equals
10 eighty.

11 29. "Notice of receipt" means a written document that is issued by the
12 plan to a participant and alternate payee and that states that the plan has
13 received a domestic relations order and a request for a determination that
14 the domestic relations order is a plan approved domestic relations order.

15 30. "Ordinary disability" means a physical condition that the local
16 board determines will totally and permanently prevent an employee from
17 performing a reasonable range of duties within the employee's department or a
18 mental condition that the local board determines will totally and permanently
19 prevent an employee from engaging in any substantial gainful activity.

20 31. "Participant" means a member who is subject to a domestic relations
21 order.

22 32. "Participant's portion" means benefits that are payable to a
23 participant pursuant to a plan approved domestic relations order.

24 33. "Participating employer" means an employer that the ~~fund manager~~
25 BOARD has determined to have one or more employees in a designated position
26 or a county, city, town or department of this state that has entered into a
27 joinder agreement pursuant to section 38-902.

28 34. "Pension" means a series of monthly payments by the retirement plan
29 but does not include an annuity that is payable pursuant to section 38-911.

30 35. "Personal representative" means the personal representative of a
31 deceased alternate payee.

32 36. "Plan approved domestic relations order" means a domestic relations
33 order that the plan approves as meeting all the requirements for a plan
34 approved domestic relations order as otherwise prescribed in this article.

35 37. "Probation or surveillance officer" means an officer appointed
36 pursuant to section 8-203, 12-251 or 12-259 but does not include other
37 personnel, office assistants or support staff.

38 38. "Retired member" means an individual who terminates employment and
39 who is receiving a pension pursuant to either section 38-885 or 38-886.

40 39. "Retirement" or "retired" means termination of employment after a
41 member has fulfilled all requirements for a pension.

42 40. "Retirement plan" or "plan" means the corrections officer
43 retirement plan established by this article.

44 41. "Salary" means the base salary, overtime pay, shift differential
45 pay, military differential wage pay and holiday pay paid a member for

1 personal services rendered in a designated position to a participating
2 employer on a regular monthly, semimonthly or biweekly payroll basis, except
3 that for the purposes of this paragraph the amount of overtime included shall
4 not include payments to the member for the sale of compensatory time. Salary
5 includes amounts that are subject to deferred compensation or tax shelter
6 agreements. Salary does not include payment for any remuneration or
7 reimbursement other than as prescribed by this paragraph. For the purposes of
8 this paragraph, "base salary" means the amount of compensation each member is
9 regularly paid for personal services rendered to an employer before the
10 addition of any extra monies, including overtime pay, shift differential pay,
11 holiday pay, payments for the sale of compensatory time, fringe benefit pay
12 and similar extra payments.

13 42. "Segregated funds" means the amount of benefits that would
14 currently be payable to an alternate payee pursuant to a domestic relations
15 order under review by the plan, or a domestic relations order submitted to
16 the plan that failed to qualify as a plan approved domestic relations order,
17 if the domestic relations order were determined to be a plan approved
18 domestic relations order.

19 43. "Service" means employment rendered to a participating employer as
20 an employee in a designated position. Any absence that is authorized by an
21 employer, including any periods during which the employee is on an employer
22 sponsored long-term disability program, is considered as service if the
23 employee returns or is deemed by the employer to have returned to a
24 designated position within the period of the authorized absence.

25 44. "Total and permanent disability" means a physical or mental
26 condition that is not an accidental disability, that the local board finds
27 totally and permanently prevents a member from engaging in any gainful
28 employment and that is the direct and proximate result of the member's
29 performance of the member's duty as an employee of a participating employer.

30 Sec. 55. Section 38-882, Arizona Revised Statutes, is amended to read:
31 38-882. Corrections officer retirement plan and fund;
32 administration

33 A. The corrections officer retirement plan and the corrections officer
34 retirement plan fund are established.

35 B. The fund consists of the monies and assets generated by the
36 operation of the retirement plan. The fund shall be used exclusively to pay
37 benefits to and on behalf of members and beneficiaries in accordance with the
38 provisions of this article and to pay the administration, operation and
39 investment expenses of the plan and fund. In no case shall all or any
40 portion of the fund revert or otherwise be paid to an employer.

41 C. The ~~fund-manager~~ BOARD is entitled to administer, manage and
42 operate the plan and fund.

43 D. The corrections officer retirement plan is a jural entity that may
44 sue and be sued.

1 Sec. 56. Section 38-883, Arizona Revised Statutes, is amended to read:
2 38-883. Board of trustees; powers and duties

3 A. The ~~fund-manager~~ BOARD shall:

4 1. Maintain records of the operation and administration of the plan
5 and fund.

6 2. Contract on a fee basis for an independent annual audit of the
7 accounting records of the plan and fund and file a copy of the audit report
8 with the auditor general.

9 3. Employ on a fee basis an independent firm of actuaries to perform
10 annual actuarial valuations for each participating employer of the plan and
11 fund based on an actuarial cost method and actuarial assumptions recommended
12 by the actuary and adopted by the ~~fund-manager~~ BOARD. The actuarial
13 valuations shall be performed by or under the direct supervision of an
14 actuary who is a member of the American academy of actuaries. By November 1
15 of each year, the ~~fund-manager~~ BOARD shall provide a preliminary report and
16 by December 15 of each year provide a final report to the governor, the
17 speaker of the house of representatives and the president of the senate on
18 the contribution rate for the ensuing fiscal year.

19 4. Invest and reinvest the monies and assets of the fund in accordance
20 with the investment provisions of the public safety personnel retirement
21 system. The ~~fund-manager~~ BOARD may commingle securities and monies of the
22 fund subject to the crediting of receipts and earnings and charging of
23 payments to the account of the appropriate employer.

24 5. Submit a detailed annual report of the operation and investment
25 performance of the plan and fund to the governor, the legislature and the
26 members of the plan. The ~~fund-manager~~ BOARD shall submit the annual report
27 no later than six months after the end of the fiscal year to which it
28 pertains.

29 B. The ~~fund-manager~~ BOARD OF TRUSTEES may:

30 1. Employ services it deems necessary, including legal services, for
31 the operation and administration of the plan and fund.

32 2. Utilize separate or commingled investment vehicles.

33 3. Delegate authority to the administrator employed pursuant to
34 section 38-848, subsection K, paragraph 6.

35 4. Appear before local boards and the courts and political
36 subdivisions of this state through counsel or appointed representatives to
37 protect the fund. The ~~fund-manager~~ BOARD OF TRUSTEES is not responsible for
38 the actions or omissions of the local boards under this plan but may seek
39 review or a rehearing of actions or omissions of local boards. The ~~fund~~
40 ~~manager~~ BOARD OF TRUSTEES does not have a duty to review actions of the local
41 boards but may do so, in its discretion, in order to protect the fund.

42 5. Perform all acts, whether or not expressly authorized, ~~which~~ THAT
43 it deems necessary and proper for the protection of the plan and fund.

1 Sec. 57. Section 38-883.01, Arizona Revised Statutes, is amended to
2 read:

3 38-883.01. Qualified governmental excess benefit arrangement;
4 definitions

5 A. The ~~fund-manager~~ BOARD may establish a qualified governmental
6 excess benefit arrangement for the sole purpose of enabling the ~~fund-manager~~
7 BOARD to continue to apply the same formula for determining benefits payable
8 to all employees covered by the plan whose benefits under the plan are
9 limited by section 415 of the internal revenue code.

10 B. The ~~fund-manager~~ BOARD shall administer the qualified governmental
11 excess benefit arrangement. The ~~fund-manager~~ BOARD has full discretionary
12 fiduciary authority to determine all questions arising in connection with the
13 arrangement, including its interpretation and any factual questions arising
14 under the arrangement.

15 C. All members and retired members of the plan are eligible to
16 participate in the qualified governmental excess benefit arrangement if their
17 benefits under the plan would exceed the limitations imposed by section 415
18 of the internal revenue code.

19 D. On or after the effective date of the qualified governmental excess
20 benefit arrangement, the employer shall pay to each eligible member of the
21 plan who retires on or after the effective date and to each retired member
22 who retired before the effective date and that member's beneficiary, if
23 required, a supplemental pension benefit equal to the amount by which the
24 benefit that would have been payable under the plan, without regard to any
25 provisions in the plan incorporating the limitation on benefits imposed by
26 section 415 of the internal revenue code, exceeds the benefit actually
27 payable taking into account the limitation imposed on the plan by section 415
28 of the internal revenue code. The ~~fund-manager~~ BOARD shall compute and pay
29 the supplemental pension benefits under the same terms and conditions and to
30 the same person as the benefits payable to or on account of a retired member
31 under the plan.

32 E. The employer shall not fund benefits payable under the qualified
33 governmental excess benefit arrangement. The employer shall pay benefits
34 payable under the qualified governmental excess benefit arrangement out of
35 the general assets of the employer. For administrative purposes, the
36 employer may establish a grantor trust for the benefit of eligible members.
37 The employer shall be treated as grantor of the trust for purposes of section
38 677 of the internal revenue code. The rights of any person to receive
39 benefits under the qualified governmental excess benefit arrangement are
40 limited to those of a general creditor of the employer.

41 F. The terms and conditions contained in the plan, other than those
42 relating to the benefit limitation imposed by section 415 of the internal
43 revenue code, apply, unless the terms and conditions are inconsistent with
44 the purpose of the qualified governmental excess benefit arrangement.

1 G. For the purposes of this section:

2 1. "Internal revenue code" has the same meaning prescribed in section
3 42-1001.

4 2. "Qualified governmental excess benefit arrangement" means a portion
5 of the plan if:

6 (a) The portion is maintained solely to provide to members of the plan
7 that part of a member's annual benefit that is otherwise payable under the
8 terms of the plan and that exceeds the limitations imposed by section 415 of
9 the internal revenue code.

10 (b) Under that portion, a direct or indirect election to defer
11 compensation is not provided at any time to the member.

12 (c) Excess benefits are not paid from a trust that is a part of the
13 plan unless the trust is maintained solely for the purpose of providing
14 excess benefits.

15 Sec. 58. Section 38-884, Arizona Revised Statutes, is amended to read:

16 38-884. Membership of retirement plan; termination; credited
17 service; redemption

18 A. Each employee of a participating employer is a member of the plan
19 unless the employee is receiving a pension from the plan. A person employed
20 shall undergo a medical examination performed by a doctor or clinic appointed
21 by the local board or, in the case of a state correctional officer who is
22 employed by the state department of corrections, complete a physical
23 examination pursuant to section 41-1822, subsection B. For the purposes of
24 subsection B of this section, the doctor or clinic appointed by the local
25 board may be the employer's regular employee or contractor.

26 B. The purpose of the medical examination authorized by this section
27 is to identify a member's physical or mental condition or injury that existed
28 or occurred before the member's date of membership in the plan. Any employee
29 who fails or refuses to submit to the medical examination prescribed in this
30 section is deemed to waive all rights to disability benefits under this
31 article. Medical examinations conducted under this article shall not be
32 conducted or used for purposes of hiring, advancement, discharge, job
33 training or other terms, conditions and privileges of employment unrelated to
34 receipt or qualification for pension benefits or service credits from the
35 fund. This subsection does not affect or impair the right of an employer to
36 prescribe medical or physical standards for employees or prospective
37 employees.

38 C. If a member ceases to be an employee for any reason other than
39 death or retirement, within twenty days after filing a completed application
40 with the ~~fund manager~~ BOARD, the member is entitled to receive the following
41 amounts, less any benefit payments the member has received and any amount the
42 member may owe to the plan:

43 1. If the member has less than five years of credited service with the
44 plan, the member may withdraw the member's accumulated contributions from the
45 plan.

1 2. If the member has five or more years of credited service with the
2 plan, the member may withdraw the member's accumulated contributions plus an
3 amount equal to the amount determined as follows:

4 (a) 5.0 to 5.9 years of credited service, twenty-five per cent of all
5 member contributions deducted from the member's salary pursuant to section
6 38-891, subsection B.

7 (b) 6.0 to 6.9 years of credited service, forty per cent of all member
8 contributions deducted from the member's salary pursuant to section 38-891,
9 subsection B.

10 (c) 7.0 to 7.9 years of credited service, fifty-five per cent of all
11 member contributions deducted from the member's salary pursuant to section
12 38-891, subsection B.

13 (d) 8.0 to 8.9 years of credited service, seventy per cent of all
14 member contributions deducted from the member's salary pursuant to section
15 38-891, subsection B.

16 (e) 9.0 to 9.9 years of credited service, eighty-five per cent of all
17 member contributions deducted from the member's salary pursuant to section
18 38-891, subsection B.

19 (f) 10.0 or more years of credited service, one hundred per cent of
20 all member contributions deducted from the member's salary pursuant to
21 section 38-891, subsection B.

22 D. If a member has more than ten years of credited service with the
23 plan, leaves the monies prescribed in subsection C of this section on account
24 with the plan for more than thirty days after termination of employment and
25 after that time period requests a refund of those monies, the member is
26 entitled to receive the amount prescribed in subsection C of this section
27 plus interest at a rate determined by the ~~fund manager~~ BOARD for each year
28 computed from and after the member's termination of employment.

29 E. If the refund includes monies that are an eligible rollover
30 distribution and the member elects to have the distribution paid directly to
31 an eligible retirement plan or individual retirement account or annuity and
32 specifies the eligible retirement plan or individual retirement account or
33 annuity to which the distribution is to be paid, the distribution shall be
34 made in the form of a direct trustee-to-trustee transfer to the specified
35 eligible retirement plan. The distribution shall be made in the form and at
36 the time prescribed by the ~~fund manager~~ BOARD.

37 F. Service shall be credited to a member's individual credited service
38 account in accordance with rules the local board prescribes. In no case
39 shall more than twelve months of credited service be credited on account of
40 all service rendered by a member in any one year. In no case shall service
41 be credited for any period during which the member is not employed in a
42 designated position, except as provided by sections 38-921 and 38-922.

43 G. Credited service is forfeited if the amounts prescribed in
44 subsection C or D of this section are paid or are transferred in accordance
45 with this section.

1 H. If a former member becomes reemployed with the same employer within
2 two years after the former member's termination date, a member may have
3 forfeited credited service attributable to service rendered during a prior
4 period of service as an employee restored on satisfaction of each of the
5 following conditions:

6 1. The member files with the plan a written application for
7 reinstatement of forfeited credited service within ninety days after again
8 becoming an employee.

9 2. The retirement fund is paid the total amount previously withdrawn
10 pursuant to subsection C or D of this section plus compound interest from the
11 date of withdrawal to the dates of repayment. Interest shall be computed at
12 the rate of nine per cent for each year compounded each year from the date of
13 withdrawal to the date of repayment. Forfeited credited service shall not be
14 restored until complete payment is received by the fund.

15 3. The required payment is completed within one year after returning
16 to employee status.

17 I. A present active member of the plan who received a refund of
18 accumulated contributions from the plan pursuant to subsection C or D of this
19 section and forfeited credited service pursuant to subsection G of this
20 section may elect to redeem any part of that forfeited credited service by
21 paying into the plan any amounts required pursuant to this subsection. A
22 present active member who elects to redeem any part of forfeited credited
23 service for which the member is deemed eligible by the ~~fund manager~~ BOARD
24 shall pay into the plan the amounts previously paid or transferred as a
25 refund of the member's accumulated contributions plus an amount, computed by
26 the plan's actuary that is necessary to equal the increase in the actuarial
27 present value of projected benefits resulting from the redemption calculated
28 using the actuarial methods and assumptions prescribed by the plan's actuary.

29 J. A retired member may become employed by an employer in a designated
30 position and continue to receive a pension if the employment occurs at least
31 twelve months after retirement. The retired member shall not contribute to
32 the fund and shall not accrue credited service. If a retired member becomes
33 employed by an employer in a designated position before twelve months after
34 retirement:

35 1. Payment of the retired member's pension shall be suspended until
36 the retired member again ceases to be an employee. The amount of pension
37 shall not be changed on account of service as an employee subsequent to
38 retirement.

39 2. The retired member shall not contribute to the fund and shall not
40 accrue credited service.

41 Sec. 59. Section 38-885.01, Arizona Revised Statutes, is amended to
42 read:

43 38-885.01. Reverse deferred retirement option plan; purpose

44 A. A reverse deferred retirement option plan is established. The
45 purpose of the reverse deferred retirement option plan is to add flexibility

1 to the plan and to provide members who elect to participate in the reverse
2 deferred retirement option plan access to a lump sum benefit in addition to
3 their normal monthly retirement benefit on actual retirement.

4 B. Beginning on July 1, 2006 through June 30, 2011, the ~~fund manager~~
5 BOARD shall offer the reverse deferred retirement option plan to members on a
6 voluntary basis as an alternative method of benefit accrual under the plan.

7 C. Any member who is eligible for a normal pension pursuant to section
8 38-885, who is not awarded an accidental, ordinary or total and permanent
9 disability pension and who has at least twenty-four years of credited
10 service, or in the case of a dispatcher, who has at least twenty-five years
11 of credited service, is eligible to participate in the reverse deferred
12 retirement option plan.

13 D. A member who elects to participate in the reverse deferred
14 retirement option plan shall voluntarily and irrevocably:

15 1. Designate a reverse deferred retirement option plan date that is
16 the first day of the calendar month immediately following a member's
17 completion of twenty-four years of credited service or a date not more than
18 sixty consecutive months before the date the member elects to participate in
19 the reverse deferred retirement option plan, whichever is later.

20 2. Agree to terminate employment on the date the member elects to
21 participate in the reverse deferred retirement option plan.

22 3. Receive benefits from the plan on termination of employment at the
23 same time and in the same manner as otherwise prescribed in this article
24 using the factors of credited service and average monthly salary in effect on
25 the reverse deferred retirement option plan date.

26 E. On election, a reverse deferred retirement option plan
27 participation account is established within the plan on behalf of each
28 reverse deferred retirement option plan participant. All benefits accrued
29 pursuant to this article shall be accounted for in the reverse deferred
30 retirement option plan participation account. A reverse deferred retirement
31 option plan participant does not have a claim on the assets of the plan with
32 respect to the member's reverse deferred retirement option plan participation
33 account and assets shall not be set aside for any reverse deferred retirement
34 option plan participant that are separate from all other system assets.

35 F. All amounts credited to a member's reverse deferred retirement
36 option plan participation account are fully vested.

37 G. A member's reverse deferred retirement option plan participation
38 account shall be credited with the following:

39 1. An amount that is credited as though accrued monthly from the
40 reverse deferred retirement option plan date to the date the member elected
41 to participate in the reverse deferred retirement option plan and that is
42 computed in the same manner as a normal retirement benefit using the factors
43 of credited service and average monthly salary in effect on the reverse
44 deferred retirement option plan date.

1 2. An amount that is credited as though accrued monthly and that
2 represents interest at a rate equal to the yield on a five year treasury note
3 as of the first day of the month as published by the federal reserve board.

4 H. Employee and employer contributions pursuant to section 38-891 that
5 are deposited during the period of the reverse deferred retirement option
6 plan are not eligible to be refunded to the employer or member.

7 I. The participant is not entitled to receive any amount prescribed by
8 section 38-905 or 38-906 during the reverse deferred retirement option plan
9 participation period.

10 J. The form of payment shall be a lump sum distribution. If allowed
11 by the internal revenue service, the participant may elect to transfer the
12 lump sum distribution to an eligible retirement plan or individual retirement
13 account.

14 K. The reverse deferred retirement option plan shall not jeopardize in
15 any way the tax qualified status of the plan under the rules of the internal
16 revenue service. The ~~fund-manager~~ BOARD may adopt additional provisions to
17 the extent necessary or appropriate for the reverse deferred retirement
18 option plan to comply with applicable federal laws or rules.

19 Sec. 60. Section 38-891, Arizona Revised Statutes, is amended to read:

20 38-891. Employer and member contributions

21 A. As determined by actuarial valuations reported to the employers and
22 the local boards by the ~~fund-manager~~ BOARD, each employer shall make level
23 per cent of salary contributions sufficient under the actuarial valuations to
24 meet both the normal cost plus the actuarially determined amount required to
25 amortize the unfunded accrued liability over, beginning July 1, 2005 a
26 rolling period of at least twenty and not more than thirty years that is
27 established by the ~~fund-manager~~ BOARD taking into account the recommendation
28 of the plan's actuary, except that, beginning with fiscal year 2006-2007,
29 except as otherwise provided, the employer contribution rate shall not be
30 less than six per cent of salary. For any employer whose actual contribution
31 rate is less than six per cent of salary for fiscal year 2006-2007 and each
32 year thereafter, that employer's contribution rate shall be at least five per
33 cent and not more than the employer's actual contribution rate. An employer
34 may pay a higher level per cent of salary thereby reducing its unfunded past
35 service liability. All contributions made by the employers and all state
36 taxes allocated to the fund shall be irrevocable and shall be used to pay
37 benefits under the plan or to pay expenses of the plan and fund. The minimum
38 employer contribution that is paid and that is in excess of the normal cost
39 plus the actuarially determined amount required to amortize the unfunded
40 accrued liability as calculated pursuant to this subsection shall be used to
41 reduce future employer contribution increases and shall not be used to pay
42 for an increase in benefits that are otherwise payable to members. The ~~fund~~
43 ~~manager~~ BOARD shall separately account for these monies in the fund.
44 Forfeitures arising because of severance of employment before a member
45 becomes eligible for a pension or for any other reason shall be applied to

1 reduce the cost to the employer, not to increase the benefits otherwise
2 payable to members. After the close of any fiscal year, if the plan's actuary
3 determines that the actuarial valuation of an employer's account contains
4 excess valuation assets other than excess valuation assets that were in the
5 employer's account as of fiscal year 2004-2005 and is more than one hundred
6 per cent funded, the ~~fund-manager~~ BOARD shall account for fifty per cent of
7 the excess valuation assets in a stabilization reserve account. After the
8 close of any fiscal year, if the plan's actuary determines that the actuarial
9 valuation of an employer's account has a valuation asset deficiency and an
10 unfunded actuarial accrued liability, the ~~fund-manager~~ BOARD shall use any
11 valuation assets in the stabilization reserve account for that employer, to
12 the extent available, to limit the decline in that employer's funding ratio
13 to not more than two per cent.

14 B. Except as provided by subsection I, each member shall contribute
15 7.96 per cent of the member's salary to the retirement plan. Member
16 contributions shall be made by payroll deduction. Continuation of employment
17 by the member constitutes consent and agreement to the deduction of the
18 applicable member contribution. Payment of the member's salary less the
19 deducted contributions constitutes full and complete discharge and
20 satisfaction of all claims and demands of the member relating to salary for
21 services rendered during the period covered by the payment.

22 C. Each participating employer shall cause the member contributions to
23 be deducted from the salary of each member. The deducted member
24 contributions shall be paid to the retirement plan within five working days
25 and shall be credited to the member's individual account.

26 D. During a period when an employee is on industrial leave and the
27 employee elects to continue contributions during the period of industrial
28 leave, the employer and employee shall make contributions based on the salary
29 the employee would have received in the employee's job classification if the
30 employee was in normal employment status.

31 E. The local board of the state department of corrections or the local
32 board of the department of juvenile corrections may specify a position within
33 that department as a designated position if the position is filled by an
34 employee who has at least five years of credited service under the plan, who
35 is transferred to temporarily fill the position and who makes a written
36 request to the local board to specify the position as a designated position
37 within ninety days of being transferred. On the employee leaving the
38 position, the position is no longer a designated position. For the purposes
39 of this subsection, "temporarily filled" means an employee is transferred to
40 fill the position for a period of not more than one year.

41 F. The local board of the state department of corrections or the local
42 board of the department of juvenile corrections may specify a designated
43 position within the department as a nondesignated position if the position is
44 filled by an employee who has at least five years of credited service under
45 the Arizona state retirement system and who makes a written request to the

1 local board to specify the position as a nondesignated position within ninety
2 days of accepting the position. On the employee leaving the position, the
3 position reverts to a designated position.

4 G. The local board of the judiciary may specify positions within the
5 administrative office of the courts that require direct contact with and
6 primarily provide training or technical expertise to county probation,
7 surveillance or juvenile detention officers as a designated position if the
8 position is filled by an employee who is a member of the plan currently
9 employed in a designated position as a probation, surveillance or juvenile
10 detention officer and who has at least five years of credited service under
11 the plan. An employee who fills such a position shall make a written request
12 to the local board to specify the position as a designated position within
13 ninety days of accepting the position. On the employee leaving the position,
14 the position reverts to a nondesignated position.

15 H. Beginning with fiscal year 2008-2009, if the aggregate computed
16 employer contribution rate that is calculated pursuant to subsection A is
17 less than six per cent of salary, beginning on July 1 of the following fiscal
18 year the member contribution rate prescribed in subsection B or I is
19 permanently reduced by an amount that is equal to the difference between six
20 per cent and the aggregate computed employer contribution rate.
21 Notwithstanding this subsection, the member contribution rate shall not be
22 less than 7.65 per cent of the member's salary.

23 I. Notwithstanding subsection B, except for a full-time dispatcher, a
24 member shall contribute 8.41 per cent of the member's salary to the
25 retirement plan. After the close of any fiscal year, if the plan's actuary
26 determines that the aggregate ratio of the funding value of accrued assets to
27 the accrued liabilities of the fund is at least one hundred per cent, from
28 and after June 30 of the following year, except for a full-time dispatcher, a
29 member shall contribute 7.96 per cent of the member's salary, to the
30 retirement plan. Additionally, the member's contribution to the retirement
31 plan may also be permanently reduced pursuant to subsection H.

32 Sec. 61. Section 38-892, Arizona Revised Statutes, is amended to read:

33 38-892. Internal revenue code section 414(h) pickup of member
34 contributions

35 Each participating employer shall pick up the contributions required of
36 members on account of compensation paid after the effective date specified in
37 the resolution of the ~~fund manager~~ BOARD activating the provisions of this
38 section. The picked up contributions shall be treated as participating
39 employer contributions for the purpose of tax treatment under the United
40 States internal revenue code. The specified effective date shall not be
41 before the date the retirement plan receives notification from the internal
42 revenue service that pursuant to section 414(h) of the internal revenue code
43 the member contributions picked up shall not be included in gross income for
44 income tax purposes until the time that the picked up contributions are
45 distributed by refund or pension payments. The participating employers shall

1 pick up the member contributions from funds established and available in a
2 retirement deduction account, which funds would otherwise have been
3 designated as member contributions and paid to the retirement plan. Member
4 contributions picked up pursuant to this section shall be treated for all
5 other purposes, in the same manner and to the same extent, as member
6 contributions made before the effective date.

7 Sec. 62. Section 38-893, Arizona Revised Statutes, is amended to read:
8 38-893. Local boards; powers and duties; rules; hearings;
9 administrative review

10 A. The administration of the plan and the responsibility for making
11 the provisions of the plan effective for each employer are vested in a local
12 board. The state department of corrections, the department of juvenile
13 corrections, the department of public safety, each participating county
14 sheriff's department, each participating city or town, each participating
15 employer of full-time dispatchers for eligible groups as defined in section
16 38-842 and the judiciary shall have a local board. Each local board is
17 constituted as follows:

18 1. For the state departments, two members who are elected by secret
19 ballot by members employed by that department in a designated position and
20 two citizens who are appointed by the governor. The director of each state
21 department shall appoint one member to the local board who is knowledgeable
22 in personnel actions. Each state department local board shall elect a
23 chairman.

24 2. For each participating county, the chairman of the board of
25 supervisors, or the chairman's designee who is approved by the board of
26 supervisors, as chairman, two members who are elected by secret ballot by
27 members employed by the participating county in a designated position and two
28 citizens, one of whom shall be the head of the merit system if it exists for
29 the group of members, who are appointed by the chairman of the board of
30 supervisors with the approval of the board of supervisors.

31 3. For political subdivisions, the mayor or chief elected official or
32 a designee of the mayor or chief elected official approved by the respective
33 governing body as chairman, two members elected by secret ballot by members
34 employed by the appropriate employer and two citizens, one of whom shall be
35 the head of the merit system if it exists for the group of members, appointed
36 by the mayor or chief elected official and with the approval of the city
37 council or governing body of the employer.

38 4. For the judiciary, two members who are elected by secret ballot by
39 members who are employed as a probation, surveillance or juvenile detention
40 officer, a designee of the chief justice of the Arizona supreme court and two
41 citizens, one of whom shall be the head of a human resource department for
42 the group of members, appointed by the chief justice.

43 B. The appointments and elections of local board members shall take
44 place with one elective and one appointive board member, as designated by the
45 appointing authority, serving a term ending two years after the date of

1 appointment or election and the other local board members serving a term
2 ending four years after the date of appointment or election. Thereafter,
3 every second year, and as a vacancy occurs, an office shall be filled for a
4 term of four years in the same manner as provided in this section.

5 C. Each local board shall be fully constituted pursuant to subsection
6 A of this section within sixty days after the employer's effective date of
7 participation in the plan. If the deadline is not met, on the written
8 request of any member who is covered by the local board or the employer to
9 the ~~fund-manager~~ BOARD OF TRUSTEES, the ~~fund-manager~~ BOARD OF TRUSTEES shall
10 appoint all vacancies of the local board pursuant to subsection A of this
11 section and designate whether each appointive position is for a two year or
12 four year term. If the ~~fund-manager~~ BOARD OF TRUSTEES cannot find
13 individuals to serve on the local board who meet the requirements of
14 subsection A of this section, the ~~fund-manager~~ BOARD OF TRUSTEES may appoint
15 individuals to serve as interim local board members until qualified
16 individuals are appointed or elected. Within ten days after the member's
17 appointment or election, each member of a local board shall take an oath of
18 office that, so far as it devolves on the member, the member shall diligently
19 and honestly administer the affairs of the local board and shall not
20 knowingly violate or willingly permit to be violated any of the provisions of
21 law applicable to the plan.

22 D. Except as limited by subsection E of this section, a local board
23 shall:

24 1. Decide all questions of eligibility and service credits and
25 determine the amount, manner and time of payment of any benefit under the
26 plan.

27 2. Make a determination as to the right of a claimant to a benefit and
28 afford a claimant or the ~~fund-manager~~ BOARD OF TRUSTEES, or both, a right to
29 a rehearing on the original determination, unless the ~~fund-manager~~ BOARD OF
30 TRUSTEES determines that granting the relief requested would violate the
31 internal revenue code or threaten to impair the plan's status as a qualified
32 plan under the internal revenue code. If the ~~fund-manager~~ BOARD OF TRUSTEES
33 determines that granting the requested relief would violate the internal
34 revenue code or threaten to impair the plan's status as a qualified plan, the
35 ~~fund-manager~~ BOARD OF TRUSTEES may refuse to grant the relief by issuing a
36 written determination to the local board and the party petitioning the local
37 board for relief. The decision by the ~~fund-manager~~ BOARD OF TRUSTEES is
38 subject to judicial review pursuant to title 12, chapter 7, article 6.

39 3. Request and receive from the employers and from members information
40 as is necessary for the proper administration of the plan and action on
41 claims for benefits and forward the information to the ~~fund-manager~~ BOARD OF
42 TRUSTEES.

43 4. Distribute, in the manner the local board determines to be
44 appropriate, information explaining the plan that is received from the ~~fund~~
45 ~~manager~~ BOARD OF TRUSTEES.

1 5. Furnish the employer, the ~~fund-manager~~ BOARD OF TRUSTEES and the
2 legislature, on request, with annual reports with respect to the
3 administration of the plan that are reasonable and appropriate.

4 6. Appoint a medical board, which is composed of a designated
5 physician or clinic other than the employer's regular employee or contractor.
6 If required, the local board may employ other physicians to report on special
7 cases. The examining physician or clinic shall report the results of
8 examinations made to the local board, and the secretary of the local board
9 shall preserve the report as a permanent record.

10 7. Sue and be sued to effectuate the duties and responsibilities set
11 forth in this article.

12 8. Prescribe procedures to be followed by claimants in filing
13 applications for benefits.

14 9. Receive and review the actuarial valuation of the plan for its
15 group of members.

16 10. Receive and review reports of the financial condition and of the
17 receipts and disbursements of the fund from the ~~fund-manager~~ BOARD OF
18 TRUSTEES.

19 E. A local board has no power to add to, subtract from, modify or
20 waive any of the terms of the plan, change or add to any benefits provided by
21 the plan or waive or fail to apply any requirement of eligibility for
22 membership or benefits under the plan. Notwithstanding any limitations
23 periods imposed in this article, including subsections G and H of this
24 section, if the ~~fund-manager~~ BOARD OF TRUSTEES determines a local board
25 decision violates the internal revenue code or threatens to impair the plan's
26 status as a qualified plan under the internal revenue code the local board's
27 decision is not final and binding and the ~~fund-manager~~ BOARD OF TRUSTEES may
28 refrain from implementing or complying with the local board decision.

29 F. A local board, from time to time, shall establish and adopt rules
30 as it deems necessary or desirable for its administration. All rules and
31 decisions of a local board shall be uniformly and consistently applied to all
32 members in similar circumstances.

33 G. Except as otherwise provided in this article, an action by a
34 majority vote of the members of a local board that is not inconsistent with
35 the provisions of the plan and the internal revenue code is final, conclusive
36 and binding on all persons affected by it, unless a timely application for a
37 rehearing or appeal is filed as provided in this article. No later than
38 twenty business days after taking action, the local board shall submit to the
39 ~~fund-manager~~ BOARD OF TRUSTEES the name of the member affected by its
40 decision, a description of the action taken and an explanation of the reasons
41 supporting the local board's action. The ~~fund-manager~~ BOARD OF TRUSTEES may
42 not implement and comply with any local board action that does not comply
43 with the internal revenue code or that threatens to jeopardize the plan's
44 status as a qualified plan under the internal revenue code.

1 H. A claimant or the ~~fund-manager~~ BOARD OF TRUSTEES may apply for a
2 rehearing before the local board within the time periods prescribed in this
3 subsection, except that if a decision of a local board violates the internal
4 revenue code or threatens to jeopardize the plan's status as a qualified plan
5 under the internal revenue code, no limitation period for the ~~fund-manager~~
6 BOARD OF TRUSTEES to seek a rehearing of a local board decision applies. A
7 claimant or the ~~fund-manager~~ BOARD OF TRUSTEES shall file an application for
8 rehearing in writing with a member of the local board or its secretary within
9 sixty days after:

10 1. The claimant receives notification of the local board's original
11 action by certified mail, by attending the meeting at which the action is
12 taken or by receiving benefits from the plan pursuant to the local board's
13 original action, whichever occurs first.

14 2. The ~~fund-manager~~ BOARD OF TRUSTEES receives notification of the
15 local board's original action as prescribed by subsection G of this section
16 by certified mail.

17 I. A hearing before a local board on a matter remanded from the
18 superior court is not subject to a rehearing before the local board.

19 J. Decisions of local boards are subject to judicial review pursuant
20 to title 12, chapter 7, article 6.

21 K. When making a ruling, determination or calculation, the local board
22 is entitled to rely on information furnished by the employer, the ~~fund~~
23 ~~manager~~ BOARD OF TRUSTEES, independent legal counsel or the actuary for the
24 plan.

25 L. Each member of a local board is entitled to one vote. A majority
26 is necessary for a decision by the members of a local board at any meeting of
27 the local board.

28 M. The local board shall adopt bylaws as it deems necessary. The
29 local board shall elect a secretary who may, but need not, be a member of the
30 local board. The secretary of the local board shall keep a record and
31 prepare minutes of all meetings, forward the minutes to the ~~fund-manager~~
32 BOARD OF TRUSTEES within forty-five days after each meeting and forward all
33 necessary communications to the ~~fund-manager~~ BOARD OF TRUSTEES.

34 N. The employer and not the ~~fund-manager~~ BOARD OF TRUSTEES or plan
35 shall pay the fees of the medical board and of the local board's legal
36 counsel and all other expenses of the local board necessary for the
37 administration of the plan at rates and in amounts as the local board
38 approves.

39 O. The local board shall issue directions to the ~~fund-manager~~ BOARD OF
40 TRUSTEES concerning all benefits that are to be paid from the employer's
41 account pursuant to the provisions of the fund. The local board shall keep
42 on file, in the manner it deems convenient and proper, all reports from the
43 ~~fund-manager~~ BOARD OF TRUSTEES and the actuary.

44 P. The local board and the individual members of the local board are
45 indemnified from the assets of the fund for any judgment against the local

board or its members, including attorney fees and costs, arising from any act, or failure to act, made in good faith pursuant to the provisions of the plan.

Sec. 63. Section 38-894, Arizona Revised Statutes, is amended to read:

38-894. Financial objective of the retirement plan;
participating employer contributions

A. The financial objective of the retirement plan is to receive contributions each fiscal year which are sufficient to both:

1. Fund the actuarial cost of benefits likely to be paid on account of credited service earned by members during the fiscal year.

2. Fund the unfunded actuarial cost of benefits likely to be paid on account of credited service earned by members before the fiscal year over a period of not more than forty years. Contribution requirements shall be determined by an annual actuarial valuation using a generally recognized level per cent of payroll actuarial cost method.

B. The ~~fund-manager~~ BOARD may require an employer which THAT proposes to become a participating employer after the plan has been in operation for more than one year to make supplemental contributions based on the excess of the actuarial costs associated with the proposed participation over the actuarial costs of the plan indicated by the last annual actuarial valuation of the plan. The amount of supplemental contributions shall be determined by actuarial valuation. The ~~fund-manager~~ BOARD may pay the cost of the actuarial valuation or may require the employer to pay the cost.

C. The ~~fund-manager~~ BOARD shall certify to each participating employer the amount of annual contribution needed to meet the financial objective and the participating employer shall appropriate and cause the contribution to be paid to the retirement plan.

D. Payment of contributions shall be made in accordance with the schedule adopted by the ~~fund-manager~~ BOARD. Payments not made in a timely manner are subject to an interest charge at rates established by the ~~fund manager~~ BOARD.

Sec. 64. Section 38-895.01, Arizona Revised Statutes, is amended to read:

38-895.01. Compensation limitation; adjustments

A. The annual compensation of each member taken into account for purposes of the plan shall not exceed the following:

1. Beginning January 1, 1996 through December 31, 2001, one hundred fifty thousand dollars.

2. Beginning January 1, 2002, two hundred thousand dollars.

B. If compensation under the plan is determined on a period of time that contains fewer than twelve calendar months, the compensation limit for that period of time is equal to the dollar limit for the calendar year during which the period of time begins, multiplied by the fraction in which the numerator is the number of full months in that period of time and the denominator is twelve.

1 C. The ~~fund-manager~~ BOARD shall adjust the annual compensation limits
2 under this section at the same time and in the same manner as adjusted by the
3 United States secretary of the treasury under section 401(a)(17)(B) of the
4 internal revenue code. The adjustment under this subsection for a calendar
5 year applies to annual compensation for the plan year that begins with or
6 within the calendar year.

7 Sec. 65. Section 38-897, Arizona Revised Statutes, is amended to read:

8 38-897. Assignments prohibited; liability of fund

9 A. The right of an individual to a pension, to a refund of accumulated
10 member contributions, to the pension itself or to any other right accrued or
11 accruing to any individual, and the monies and assets of the retirement plan,
12 are not subject to execution, garnishment, attachment, the operation of
13 bankruptcy or insolvency law or other process of law except a qualified
14 domestic relations order and are unassignable except as may be otherwise
15 specifically provided.

16 B. Any attempt to anticipate, alienate, sell, transfer, assign,
17 pledge, encumber, charge or otherwise dispose of any right provided in
18 subsection A is void. The fund is not liable in any manner for or subject to
19 the debts, contracts, liabilities, engagements or torts of any person
20 entitled to these rights.

21 C. This section does not exempt employee benefits of any kind from a
22 writ of attachment, a writ of execution, a writ of garnishment and orders of
23 assignment issued by a court of record as the result of a judgment for
24 arrearages of child support or for child support debt.

25 D. A person who defrauds the plan or who takes, converts, steals or
26 embezzles monies owned by or from the plan and who fails or refuses to return
27 the monies to the plan on the ~~fund-manager's~~ BOARD'S written request is
28 subject to civil suit by the plan in the superior court of IN Maricopa
29 county. On entry of an order finding the person has defrauded the plan or
30 taken, converted, stolen or embezzled monies owned by or from the plan, the
31 court shall enter an order against that person and for the plan awarding the
32 plan all of its costs and expenses of any kind, including attorney fees, that
33 were necessary to successfully prosecute the action. The court shall also
34 grant the plan a judicial lien on all of the nonexempt property of the person
35 against whom judgment is entered pursuant to this subsection in an amount
36 equal to all amounts awarded to the plan, plus interest at the rate
37 prescribed by section 44-1201, subsection A, until all amounts owed are paid
38 to the plan.

39 E. Notwithstanding any other provision of this article, the ~~fund~~
40 ~~manager~~ BOARD may offset against any benefits otherwise payable by the plan
41 to an active or retired member or survivor any court ordered amounts awarded
42 to the ~~fund-manager~~ BOARD and plan and assessed against the member or
43 survivor.

1 Sec. 66. Section 38-900, Arizona Revised Statutes, is amended to read:
2 38-900. Internal revenue code qualification

3 The legislature intends that the retirement plan is a qualified pension
4 plan under section 401 of the internal revenue code, as amended, or successor
5 provisions of law, and that the trust is exempt from taxation under section
6 501 of the internal revenue code, as amended. The assets of the fund are
7 held in trust for the exclusive benefit of the members and beneficiaries of
8 the retirement plan. The ~~fund-manager~~ BOARD may adopt such additional
9 provisions to the retirement plan as are necessary to fulfill this intent.

10 Sec. 67. Section 38-902, Arizona Revised Statutes, is amended to read:
11 38-902. Joinder agreement

12 A. County detention officers and nonuniformed employees of a sheriff's
13 department whose primary duties require direct contact with inmates may
14 participate in this plan if the board of supervisors of the county enters
15 into a joinder agreement with the ~~fund-manager~~ BOARD OF TRUSTEES to bring
16 such employees into this plan. The joinder agreement shall be in accordance
17 with the provisions of this plan. All such employees shall be designated for
18 membership in the joinder agreement unless written consent to the contrary is
19 obtained from the ~~fund-manager~~ BOARD.

20 B. City or town detention officers may participate in this plan if the
21 governing body of the city or town enters into a joinder agreement with the
22 ~~fund-manager~~ BOARD to bring its detention officers into this plan. The
23 joinder agreement shall be in accordance with the provisions of the plan.
24 The governing body of the city or town shall designate all detention officers
25 for membership in the plan unless written consent to the contrary is obtained
26 from the ~~fund-manager~~ BOARD.

27 C. Full-time dispatchers may participate in this plan if the governing
28 body or agency of the employer of an eligible group as defined in
29 section 38-842 enters into a joinder agreement with the ~~fund-manager~~ BOARD to
30 bring its full-time dispatchers into this plan before ~~the effective date of~~
31 ~~this amendment to this section~~ NOVEMBER 24, 2009 and if the person was
32 employed by the employer as a full-time dispatcher before ~~the effective date~~
33 ~~of this amendment to this section~~ NOVEMBER 24, 2009. The joinder agreement
34 shall be in accordance with the provisions of this plan and for those
35 dispatchers designated for membership in the plan on the joinder date all
36 credited service from any other Arizona defined benefit state retirement
37 system or plan that represents credited service in a designated position
38 shall be transferred to the corrections officer retirement plan. The
39 governing body or agency of the employer shall designate all full-time
40 dispatchers for membership in the plan except for a full-time dispatcher who
41 signs an irrevocable agreement before the joinder agreement becomes effective
42 electing not to become a member of the plan. A full-time dispatcher employed
43 by an employer who becomes eligible for membership in the plan pursuant to
44 this section may elect to participate in the plan within the deadlines and

1 pursuant to the terms prescribed for such participation by the ~~fund-manager~~
2 BOARD.

3 D. Probation, surveillance and juvenile detention officers may
4 participate in this plan if the administrative office of the courts enters
5 into a joinder agreement with the ~~fund-manager~~ BOARD to bring its probation,
6 surveillance and juvenile detention officers into this plan. The joinder
7 agreement shall be in accordance with the provisions of this plan. The
8 administrative office of the courts shall designate all probation,
9 surveillance and juvenile detention officers for membership in this plan
10 unless written consent to the contrary is obtained from the ~~fund-manager~~
11 BOARD.

12 E. Detention officers who are employed by the department of public
13 safety may participate in this plan if the director of the department of
14 public safety enters into a joinder agreement with the ~~fund-manager~~ BOARD to
15 bring the department's detention officers into this plan. The joinder
16 agreement shall be in accordance with the provisions of this plan. The
17 director of the department of public safety shall designate all detention
18 officers for membership in this plan unless written consent to the contrary
19 is obtained from the ~~fund-manager~~ BOARD.

20 F. The new employer shall designate the groups of employees who are
21 eligible to participate in the plan and shall agree to make contributions
22 each year that are sufficient to meet both the normal cost of a level cost
23 method attributable to inclusion of its employees and the prescribed interest
24 on the past service cost for its employees.

25 G. Before the execution of any joinder agreement each employer
26 contemplating participation in the plan shall have an actuarial valuation
27 made, which is payable by the employer, to determine the estimated cost of
28 participation in accordance with section 38-894.

29 H. Assets under any existing public employee defined benefit
30 retirement program, except a military retirement program, that are necessary
31 to equal the actuarial present value of projected benefits to the extent
32 funded on a market value basis as of the most recent actuarial valuation
33 attributable to the employer's designated employee group, calculated using
34 the actuarial methods and assumptions adopted by the existing public employee
35 retirement program, shall be transferred from the program to this fund no
36 later than ninety days after the employer's effective date. That portion of
37 the transferred assets that is attributable to employee contributions,
38 including interest credits, shall be properly allocated to each affected
39 employee of the employer and credited to the employee's initial accumulated
40 contributions in accordance with a schedule furnished by the employer to the
41 ~~fund-manager~~ BOARD.

42 Sec. 68. Section 38-904, Arizona Revised Statutes, is amended to read:
43 38-904. Death benefits; amount

44 A. If an active or inactive member dies and no pension is payable on
45 account of the member's death, an amount equal to two times the member's

1 accumulated contributions to the retirement plan is payable to the person
2 designated by the deceased member in writing and filed with the ~~fund-manager~~
3 BOARD. If the designated person or persons do not survive the deceased
4 member, the payment is payable to the estate of the deceased member. For the
5 purposes of this subsection, "inactive member" means a person who previously
6 made contributions to the plan, who has not retired, who is not currently
7 making contributions to the plan and who has not withdrawn contributions from
8 the plan.

9 B. If the deceased retired or active member does not have an eligible
10 surviving spouse or the pension of the eligible surviving spouse is
11 terminated, each eligible child is entitled to a child's pension. A child's
12 pension terminates if the child is adopted. In the case of a disabled child,
13 the child's pension terminates if the child ceases to be under a disability
14 or ceases to be a dependent of the surviving spouse or guardian. The amount
15 of the pension of each eligible child is an equal share of the amount of the
16 surviving spouse's pension. The ~~fund-manager~~ BOARD shall pay the surviving
17 minor or disabled child's pension to the person who is the legally appointed
18 guardian or custodian of the eligible child.

19 Sec. 69. Section 38-905.01, Arizona Revised Statutes, is amended to
20 read:

21 38-905.01. Lump sum payment of benefit increases

22 Notwithstanding any provision of this article, the ~~fund-manager~~ BOARD,
23 at the request of a retired member, a survivor or the retired member's or
24 survivor's guardian or conservator, may pay any increase in retirement
25 benefits pursuant to this article in a lump sum payment based on the
26 actuarial present value of the increase in the retirement benefits if the
27 payment of the increase in retirement benefits would result in ineligibility
28 for, reduction of or elimination of social service programs provided to the
29 retired member or survivor by this state, a political subdivision of this
30 state or the federal government. Lump sum payments made pursuant to this
31 section are eligible for a direct rollover distribution.

32 Sec. 70. Section 38-906, Arizona Revised Statutes, is amended to read:

33 38-906. Group health and accident coverage for retired members;
34 payment

35 A. The ~~fund-manager~~ BOARD shall pay from the assets of the fund part
36 of the single coverage premium of any group health and accident insurance for
37 each retired member or survivor of the plan who receives a pension and who
38 has elected to participate in coverage provided by section 38-651.01 or
39 38-782 or any other health and accident insurance coverage provided or
40 administered by a participating employer in the plan. The ~~fund-manager~~ BOARD
41 shall pay up to:

42 1. One hundred fifty dollars per month for each retired member or
43 survivor of the plan who is not eligible for medicare.

44 2. One hundred dollars per month for each retired member or survivor
45 of the plan who is eligible for medicare.

1 B. The ~~fund manager~~ BOARD shall pay from the assets of the fund part
2 of the family coverage premium of any group health and accident insurance for
3 each retired member or survivor of the plan who elects family coverage and
4 who otherwise qualifies for payment pursuant to subsection A of this section.
5 Payment under this subsection is in the following amounts:

6 1. Up to two hundred sixty dollars per month if the retired member or
7 survivor of the plan and one or more dependents are not eligible for
8 medicare.

9 2. Up to one hundred seventy dollars per month if the retired member
10 or survivor of the plan and one or more dependents are eligible for medicare.

11 3. Up to two hundred fifteen dollars if either:

12 (a) The retired member or survivor of the plan is not eligible for
13 medicare and one or more dependents are eligible for medicare.

14 (b) The retired member or survivor of the plan is eligible for
15 medicare and one or more dependents are not eligible for medicare.

16 C. The ~~fund manager~~ BOARD shall not pay more than the amount
17 prescribed in this section for a benefit recipient as a member or survivor of
18 the plan.

19 ~~D. In addition to the payments provided by subsection A of this~~
20 ~~section, through June 30, 2005, the fund manager shall pay an insurance~~
21 ~~premium benefit for medical coverage, not including limited benefit coverage~~
22 ~~as defined in section 20-1137, for each retired member or survivor of the~~
23 ~~plan who is entitled to a premium benefit payment pursuant to subsection A of~~
24 ~~this section and who lives in a nonservice area as follows:~~

25 ~~1. Up to three hundred dollars per month for a retired member or~~
26 ~~survivor of the plan who is not eligible for medicare. To qualify for this~~
27 ~~additional benefit, a retired member or survivor shall pay out of pocket~~
28 ~~medical insurance premiums of at least one hundred twenty-five dollars per~~
29 ~~month.~~

30 ~~2. Up to one hundred seventy dollars per month for a retired member or~~
31 ~~survivor of the plan who is eligible for medicare. To qualify for this~~
32 ~~additional benefit, a retired member or survivor shall pay out of pocket~~
33 ~~medical insurance premiums of at least one hundred dollars per month.~~

34 ~~E. In addition to the payments provided by subsection B of this~~
35 ~~section, through June 30, 2005, the fund manager shall pay an insurance~~
36 ~~premium benefit for medical coverage, not including limited benefit coverage~~
37 ~~as defined in section 20-1137, for a retired member or survivor of the plan~~
38 ~~who is entitled to a premium benefit payment pursuant to subsection B of this~~
39 ~~section, who is enrolled in a family medical plan and who lives in a~~
40 ~~nonservice area as follows:~~

41 ~~1. Up to six hundred dollars per month if the retired member or~~
42 ~~survivor of the plan and one or more dependents are not eligible for~~
43 ~~medicare. To qualify for this additional benefit, a retired member or~~
44 ~~survivor shall pay out of pocket medical insurance premiums of at least four~~
45 ~~hundred twenty-five dollars per month.~~

1 ~~2. Up to three hundred fifty dollars per month if the retired member~~
2 ~~or survivor of the plan and one or more dependents are eligible for~~
3 ~~medicare. To qualify for this additional benefit, a retired member or~~
4 ~~survivor shall pay out of pocket medical insurance premiums of at least two~~
5 ~~hundred dollars per month.~~

6 ~~3. Up to four hundred seventy dollars per month if either:~~

7 ~~(a) The retired member or survivor of the plan is not eligible for~~
8 ~~medicare and one or more dependents are eligible for Medicare.~~

9 ~~(b) The retired member or survivor of the plan is eligible for~~
10 ~~Medicare and one or more dependents are not eligible for Medicare.~~

11 ~~To qualify for this additional benefit, a retired member or survivor shall~~
12 ~~pay out of pocket medical insurance premiums of at least four hundred dollars~~
13 ~~per month.~~

14 ~~F. In addition to the payments provided by subsection A of this~~
15 ~~section, beginning July 1, 2005 through June 30, 2009, the fund manager shall~~
16 ~~pay an insurance premium benefit for medical coverage, not including limited~~
17 ~~benefit coverage as defined in section 20-1137, for each Medicare eligible~~
18 ~~retired member or survivor of the plan who is entitled to a premium benefit~~
19 ~~payment pursuant to subsection A of this section and who lives in a~~
20 ~~nonservice area of up to one hundred seventy dollars per month for a retired~~
21 ~~member or survivor of the plan who is eligible for Medicare. To qualify for~~
22 ~~this additional benefit, a retired member or survivor shall pay out of pocket~~
23 ~~medical insurance premiums of at least one hundred dollars per month.~~

24 ~~G. In addition to the payments provided by subsection B of this~~
25 ~~section, beginning July 1, 2005 through June 30, 2009, the fund manager shall~~
26 ~~pay an insurance premium benefit for medical coverage, not including limited~~
27 ~~benefit coverage as defined in section 20-1137, for a Medicare eligible~~
28 ~~retired member or survivor of the plan who is entitled to a premium benefit~~
29 ~~payment pursuant to subsection B of this section, who is enrolled in a family~~
30 ~~medical plan and who lives in a nonservice area as follows:~~

31 ~~1. Up to three hundred fifty dollars per month if the retired member~~
32 ~~or survivor of the plan and one or more dependents are eligible for~~
33 ~~Medicare. To qualify for this additional benefit, a retired member or~~
34 ~~survivor shall pay out of pocket medical insurance premiums of at least two~~
35 ~~hundred dollars per month.~~

36 ~~2. Up to four hundred seventy dollars per month if the retired member~~
37 ~~or survivor of the plan is eligible for Medicare and one or more dependents~~
38 ~~are not eligible for Medicare. To qualify for this additional benefit, a~~
39 ~~retired member or survivor shall pay out of pocket medical insurance premiums~~
40 ~~of at least four hundred dollars per month.~~

41 ~~H. A retired member or survivor of the plan who is enrolled in a~~
42 ~~managed care program in a nonservice area is not eligible for the payment~~
43 ~~prescribed in subsection D, E, F or G of this section.~~

44 ~~I. D. A retired member or survivor of the plan may elect to purchase~~
45 ~~individual health care coverage and receive a payment pursuant to this~~

1 section through the retired member's employer if that employer assumes the
2 administrative functions associated with the payment, including verification
3 that the payment is used to pay for health insurance coverage if the payment
4 is made to the retired member or survivor of the plan.

5 ~~J. For the purposes of this section, "nonservice area" means an area~~
6 ~~in this state in which the Arizona state retirement system pursuant to~~
7 ~~section 38-782, the department of administration pursuant to section~~
8 ~~38-651.01 or the member's or survivor's participating employer does not~~
9 ~~provide or administer a health care services organization program, excluding~~
10 ~~any preferred provider organization program or individual health indemnity~~
11 ~~policy, for which the retired member or survivor of the plan is eligible.~~

12 Sec. 71. Section 38-908, Arizona Revised Statutes, is amended to read:

13 38-908. Transfer of credited service

14 A. A member who terminates employment with an employer and accepts a
15 position with the same or another employer participating in the plan shall
16 have the member's credited service transferred to the member's record with
17 the new employer provided the member leaves the member's accumulated
18 contributions on deposit with the fund. The period not employed shall not be
19 considered as service or credited service.

20 B. The new employer's account shall be credited with the member's
21 accumulated contributions plus the additional amount, if any, necessary to
22 equal the increase in the actuarial present value to the extent funded on a
23 market value basis as of the most recent actuarial valuation of projected
24 benefits resulting from the transfer calculated by the system's actuary using
25 the actuarial methods and assumptions adopted by the ~~fund manager~~ BOARD.

26 Sec. 72. Section 38-909, Arizona Revised Statutes, is amended to read:

27 38-909. Redemption of prior service; calculation

28 A. Each present active member of the plan who had previous service in
29 this state as an employee with an employer now covered by the plan or who had
30 previous service with an agency of the United States government, a state of
31 the United States or a political subdivision of a state of the United States
32 as a full-time paid corrections officer or full-time paid certified peace
33 officer may elect to redeem any part of the prior service by paying into the
34 plan any amounts required under subsection B if the prior service is not on
35 account with any other retirement system.

36 B. Any present active member who elects to redeem any part of the
37 prior service for which the employee is deemed eligible by the ~~fund manager~~
38 BOARD under this section shall pay into the plan the amounts previously
39 withdrawn by the member, if any, as a refund of the member's accumulated
40 contributions plus accumulated interest as determined by the ~~fund manager~~
41 BOARD and the additional amount, if any, computed by the plan's actuary that
42 is necessary to equal the increase in the actuarial present value of
43 projected benefits resulting from the redemption calculated using the
44 actuarial methods and assumptions prescribed by the plan's actuary.

1 C. The discount rate used by the actuary for the redemption
2 calculation pursuant to subsection B is an amount equal to the lesser of the
3 assumed rate of return that is prescribed by the ~~fund-manager~~ BOARD or an
4 amount equal to the yield on a ten year treasury note as of March 1 that is
5 published by the federal reserve board plus two per cent. This discount rate
6 is effective beginning in the next fiscal year and shall be recalculated each
7 year.

8 D. A member electing to redeem service pursuant to this section may
9 pay for service being redeemed in the form of a lump sum payment to the plan,
10 a trustee-to-trustee transfer or a direct rollover of an eligible
11 distribution from a plan described in section 402(c)(8)(B)(iii), (iv), (v) or
12 (vi) of the internal revenue code or a rollover of an eligible distribution
13 from an individual retirement account or annuity described in section 408(a)
14 or (b) of the internal revenue code.

15 Sec. 73. Section 38-912, Arizona Revised Statutes, is amended to read:

16 38-912. Civil liability; restitution or payment of fine;
17 violation; classification; offset of benefits

18 A. A person who defrauds the plan or who takes, converts, steals or
19 embezzles monies owned by or from the plan and who fails or refuses to return
20 the monies to the plan on the ~~fund-manager's~~ BOARD'S written request is
21 subject to civil suit by the plan in the superior court in Maricopa county.
22 On entry of an order finding the person has defrauded the plan or taken,
23 converted, stolen or embezzled monies owned by or from the plan, the court
24 shall enter an order against that person and for the plan awarding the plan
25 all of its costs and expenses of any kind, including attorney fees, that were
26 necessary to successfully prosecute the action. The court shall also grant
27 the plan a judicial lien on all of the nonexempt property of the person
28 against whom judgment is entered pursuant to this subsection in an amount
29 equal to all amounts awarded to the plan, plus interest at the rate
30 prescribed by section 44-1201, subsection A, until all amounts owed are paid
31 to the plan.

32 B. If a member is convicted of, or discharged because of, theft,
33 embezzlement, fraud or misappropriation of an employer's property or property
34 under the control of the employer, the member is subject to restitution and
35 fines imposed by a court of competent jurisdiction. The court may order the
36 restitution or fines to be paid from any payments otherwise payable to the
37 member from the plan.

38 C. A person who knowingly makes any false statement or who falsifies
39 or permits to be falsified any record of the plan with an intent to defraud
40 the plan is guilty of a class 6 felony. If any change or error in the
41 records results in any member or beneficiary receiving from the plan more or
42 less than the member or beneficiary would have been entitled to receive had
43 the records been correct, the local board shall correct the error, and as far
44 as practicable shall adjust the payments in a manner that the actuarial
45 equivalent of the benefit to which the member or beneficiary was correctly

1 entitled shall be paid. If a member is convicted of a crime pursuant to this
2 subsection the member is entitled to receive a lump sum payment of the
3 member's accumulated contributions but forfeits any future compensation and
4 benefits that would otherwise accrue to the member or the member's estate
5 under this article.

6 D. Notwithstanding any other provision of this article, the ~~fund~~
7 ~~manager~~ BOARD may offset against any benefits otherwise payable by the plan
8 to a member or survivor any court ordered amounts awarded to the ~~fund-manager~~
9 BOARD and plan and assessed against the member or survivor.

10 Sec. 74. Section 38-921, Arizona Revised Statutes, is amended to read:
11 38-921. Transfer of retirement service credits from one
12 retirement system or plan to another retirement
13 system or plan in this state; definitions

14 A. An active or inactive member of a state retirement system or plan,
15 including the retirement system provided for in article 2 of this chapter,
16 the elected officials' retirement plan provided for in article 3 of this
17 chapter, the public safety personnel retirement system provided for in
18 article 4 of this chapter or the corrections officer retirement plan provided
19 for in article 6 of this chapter, may transfer service credits from one
20 system or plan to the member's current or former system or plan pursuant to
21 section 38-922 if all of the following conditions are met:

22 1. The board ~~or fund-manager~~ governing the retirement system or plan
23 from which the service credits are being transferred mutually agrees with the
24 board ~~or fund-manager~~ governing the retirement system or plan to which the
25 service credits are being transferred regarding the terms of the transfer.

26 2. The transfer does not cause either the retirement system or plan to
27 which the transfer is made or the retirement system or plan from which the
28 transfer is made to incur any unfunded accrued liabilities as a result of the
29 transfer.

30 3. The member initiates the transfer by making written application to
31 the governing board ~~or fund-manager~~ of the retirement system or plan to which
32 the member is contributing.

33 B. For the purposes of this section:

34 1. "Active member" means a member who satisfies the eligibility
35 criteria of the state retirement system or plan and who is currently making
36 member contributions to or receiving credited service from the state
37 retirement system or plan.

38 2. "Inactive member" means a member of the state retirement system or
39 plan who previously made contributions to the state retirement system or plan
40 and who satisfies each of the following:

41 (a) Has not retired.

42 (b) Is not eligible for active membership in the state retirement
43 system or plan.

44 (c) Is not currently making contributions to the state retirement
45 system or plan.

1 (d) Has not withdrawn contributions from the state retirement system
2 or plan.

3 Sec. 75. Section 38-923, Arizona Revised Statutes, is amended to read:

4 38-923. Transfer of service credits between municipal
5 retirement systems and special retirement plans;
6 definitions

7 A. An active or inactive member of a retirement system or plan of a
8 municipality of this state or the public safety personnel retirement system
9 who becomes a member of one or the other of these retirement systems or plans
10 may transfer service credits from the member's prior retirement system or
11 plan to the member's current retirement system or plan pursuant to section
12 38-924 if all of the following conditions are met:

13 1. The board ~~or fund manager~~ governing the retirement system or plan
14 from which the service credits are being transferred mutually agrees with the
15 board ~~or fund manager~~ governing the retirement system or plan to which the
16 service credits are being transferred regarding the terms of the transfer.

17 2. The transfer does not cause either the retirement system or plan to
18 which the transfer is made or the retirement system or plan from which the
19 transfer is made to incur any unfunded accrued liabilities as a result of the
20 transfer.

21 3. The member initiates the transfer by making written application to
22 the governing board ~~or fund manager~~ of the retirement system or plan to which
23 the member is contributing.

24 B. An active or inactive member of a retirement system or plan of a
25 municipality of this state or the corrections officer retirement plan who
26 becomes a member of one or the other of these retirement systems or plans may
27 transfer service credits from the member's prior retirement system or plan to
28 the member's current retirement system or plan pursuant to section 38-924 if
29 all of the following conditions are met:

30 1. The board ~~or fund manager~~ governing the retirement system or plan
31 from which the service credits are being transferred mutually agrees with the
32 board ~~or fund manager~~ governing the retirement system or plan to which the
33 service credits are being transferred regarding the terms of the transfer.

34 2. The transfer does not cause either the retirement system or plan to
35 which the transfer is made or the retirement system or plan from which the
36 transfer is made to incur any unfunded accrued liabilities as a result of the
37 transfer.

38 3. The member initiates the transfer by making written application to
39 the governing board ~~or fund manager~~ of the retirement system or plan to which
40 the member is contributing.

41 C. For the purposes of this section:

42 1. "Active member" means a member who satisfies the eligibility
43 criteria of the retirement system or plan and who is currently making member
44 contributions to or receiving credited service from the retirement system or
45 plan.

1 2. "Inactive member" means a member of the retirement system or plan
2 who previously made contributions to the retirement system or plan and who
3 satisfies each of the following:

4 (a) Has not retired.

5 (b) Is not eligible for active membership in the retirement system or
6 plan.

7 (c) Is not currently making contributions to the retirement system or
8 plan.

9 (d) Has not withdrawn contributions from the retirement system or
10 plan.

11 3. "Municipality" means a city in this state with a population of more
12 than five hundred thousand persons.

13 Sec. 76. Section 38-951, Arizona Revised Statutes, is amended to read:
14 38-951. Definitions

15 In this article, unless the context otherwise requires:

16 1. "Board" means the Arizona state retirement system board established
17 by section 38-713 OR THE BOARD OF TRUSTEES ESTABLISHED BY SECTION 38-848.

18 2. "Eligible group" means any of the following:

19 (a) The Arizona state retirement system established by article 2 of
20 this chapter.

21 (b) The elected officials' retirement plan established by article 3 of
22 this chapter.

23 (c) The public safety personnel retirement system established by
24 article 4 of this chapter.

25 (d) The corrections officer retirement plan established by article 6
26 of this chapter.

27 (e) An optional retirement program established pursuant to section
28 15-1451 or 15-1628.

29 3. "Employer" means an agency or department of this state or an agency
30 or department of a political subdivision of this state that has employees in
31 an eligible group.

32 ~~4. "Fund manager" means the fund manager established by section~~
33 ~~38-848.~~

34 ~~5.~~ 4. "Plan" means a supplemental defined contribution plan
35 authorized by this article.

36 Sec. 77. Section 38-952, Arizona Revised Statutes, is amended to read:
37 38-952. Supplemental defined contribution plan; establishment;

38 administration

39 A. The board, ~~OR employer or fund manager~~ of an eligible group may
40 establish, administer, manage and operate a supplemental defined contribution
41 plan. The ~~fund manager~~ BOARD OF TRUSTEES ESTABLISHED BY SECTION 38-848 may
42 establish a single supplemental defined contribution plan for all
43 contributing members of the retirement system and plans it administers.

44 B. If a board, ~~OR employer or fund manager~~ establishes a supplemental
45 defined contribution plan:

1 1. The ARIZONA STATE RETIREMENT SYSTEM board may delegate authority to
2 implement the plan to its director appointed pursuant to section 38-715.

3 2. The employer may delegate authority to implement the plan to its
4 internal benefits administrator or designee.

5 3. The ~~fund manager~~ BOARD OF TRUSTEES may delegate authority to
6 implement the plan to the administrator employed pursuant to section 38-848,
7 subsection K, paragraph 6.

8 4. The board, ~~OR employer or fund manager~~ may:

9 (a) Employ services it deems necessary, including legal services, for
10 the operation and administration of the plan.

11 (b) Administer the plan through contracts with multiple vendors.

12 (c) Perform all acts, whether or not expressly authorized, that it
13 deems necessary and proper for the operation and protection of the plan.

14 (d) For the purposes of this article, enter into intergovernmental
15 agreements pursuant to title 11, chapter 7, article 3.

16 C. A supplemental defined contribution plan shall be designed to be a
17 qualified governmental plan under section 401(a) of the internal revenue
18 code. The legislature intends that a supplemental defined contribution plan
19 is a qualified plan under section 401 of the internal revenue code, as
20 amended, or successor provisions of law, and that a plan is exempt from
21 taxation under section 501 of the internal revenue code. The board, ~~OR~~
22 ~~employer or fund manager~~ may adopt any additional provisions to a plan that
23 are necessary to fulfill this intent.

24 D. Although designated as employee contributions, all employee
25 contributions made to a plan shall be picked up and paid by the employer in
26 lieu of contributions by the employee. The contributions picked up by an
27 employer may be made through a reduction in the employee's compensation or an
28 offset against future compensation increases, or a combination of both. An
29 employee participating in a plan does not have the option of choosing to
30 receive the contributed amounts directly instead of the employer paying the
31 amounts to the plan. It is intended that all employee contributions that are
32 picked up by the employer as provided in this subsection shall be treated as
33 employer contributions under section 414(h) of the internal revenue code,
34 shall be excluded from employees' gross income for federal and state income
35 tax purposes and are includable in the gross income of the employees or their
36 beneficiaries only in the taxable year in which they are distributed. The
37 specified effective date of the pickup pursuant to this subsection shall not
38 be before the date the plan receives notification from the internal revenue
39 service that all employee contributions that are picked up by the employer as
40 provided in this subsection shall be treated as employer contributions
41 pursuant to section 414(h) of the internal revenue code. Until notification
42 is received, any employee contributions made under section 38-953 are made
43 with after-tax contributions.

1 Sec. 78. Section 41-2501, Arizona Revised Statutes, is amended to
2 read:

3 41-2501. Applicability

4 A. This chapter applies only to procurements initiated after January
5 1, 1985 unless the parties agree to its application to procurements initiated
6 before that date.

7 B. This chapter applies to every expenditure of public monies,
8 including federal assistance monies except as otherwise specified in section
9 41-2637, by this state, acting through a state governmental unit as defined
10 in this chapter, under any contract, except that this chapter does not apply
11 to either grants as defined in this chapter, or contracts between this state
12 and its political subdivisions or other governments, except as provided in
13 chapter 24 of this title and in article 10 of this chapter. This chapter
14 also applies to the disposal of state materials. This chapter and rules
15 adopted under this chapter do not prevent any state governmental unit or
16 political subdivision from complying with the terms of any grant, gift,
17 bequest or cooperative agreement.

18 C. All political subdivisions and other local public agencies of this
19 state may adopt all or any part of this chapter and the rules adopted
20 pursuant to this chapter.

21 D. The Arizona board of regents, the legislative and judicial branches
22 of state government and the state compensation fund are not subject to the
23 ~~provisions of~~ this chapter except as prescribed in subsection E of this
24 section.

25 E. The Arizona board of regents and the judicial branch shall adopt
26 rules prescribing procurement policies and procedures for themselves and
27 institutions under their jurisdiction. The rules must be substantially
28 equivalent to the policies and procedures prescribed in this chapter.

29 F. The Arizona state lottery commission is exempt from the ~~provisions~~
30 of this chapter for procurement relating to the design and operation of the
31 lottery or purchase of lottery equipment, tickets and related materials. The
32 executive director of the Arizona state lottery commission shall adopt rules
33 substantially equivalent to the policies and procedures in this chapter for
34 procurement relating to the design and operation of the lottery or purchase
35 of lottery equipment, tickets or related materials. All other procurement
36 shall be as prescribed by this chapter.

37 G. The Arizona health care cost containment system administration is
38 exempt from the ~~provisions of~~ this chapter for provider contracts pursuant to
39 section 36-2904, subsection A and contracts for goods and services, including
40 program contractor contracts pursuant to title 36, chapter 29, articles 2
41 and 3. All other procurement, including contracts for the statewide
42 administrator of the program pursuant to section 36-2903, subsection B, shall
43 be as prescribed by this chapter.

44 H. Arizona industries for the blind is exempt from the ~~provisions of~~
45 this chapter for purchases of finished goods from members of national

1 industries for the blind and for purchases of raw materials for use in the
2 manufacture of products for sale pursuant to section 41-1972. All other
3 procurement shall be as prescribed by this chapter.

4 I. Arizona correctional industries is exempt from ~~the provisions of~~
5 this chapter for purchases of raw materials, components and supplies that are
6 used in the manufacture or production of goods or services for sale entered
7 into pursuant to section 41-1622. All other procurement shall be as
8 prescribed by this chapter.

9 J. The state transportation board and the director of the department
10 of transportation are exempt from ~~the provisions of~~ this chapter other than
11 section 41-2586 for the procurement of construction or reconstruction,
12 including engineering services, of transportation facilities or highway
13 facilities and any other services that are directly related to land titles,
14 appraisals, real property acquisition, relocation, property management or
15 building facility design and construction for highway development and that
16 are required pursuant to title 28, chapter 20.

17 K. The Arizona highways magazine is exempt from ~~the provisions of~~ this
18 chapter for contracts for the production, promotion, distribution and sale of
19 the magazine and related products and for contracts for sole source creative
20 works entered into pursuant to section 28-7314, subsection A, paragraph 5.
21 All other procurement shall be as prescribed by this chapter.

22 L. The secretary of state is exempt from ~~the provisions of~~ this
23 chapter for contracts entered into pursuant to section 41-1012 to publish and
24 sell the administrative code. All other procurement shall be as prescribed
25 by this chapter.

26 M. ~~The provisions of~~ This chapter are IS not applicable to contracts
27 for professional witnesses if the purpose of such contracts is to provide for
28 professional services or testimony relating to an existing or probable
29 judicial proceeding in which this state is or may become a party or to
30 contract for special investigative services for law enforcement purposes.

31 N. The head of any state governmental unit, in relation to any
32 contract exempted by this section from ~~the provisions of~~ this chapter, has
33 the same authority to adopt rules, procedures or policies as is delegated to
34 the director pursuant to this chapter.

35 O. Agreements negotiated by legal counsel representing this state in
36 settlement of litigation or threatened litigation are exempt from ~~the~~
37 ~~provisions of~~ this chapter.

38 P. ~~The provisions of~~ This chapter are IS not applicable to contracts
39 entered into by the department of economic security:

40 1. With a provider licensed or certified by an agency of this state to
41 provide child day care services or with a provider of family foster care
42 pursuant to section 8-503 or 36-554.

43 2. With area agencies on aging created pursuant to the older Americans
44 act of 1965 (P.L. 89-73; 79 Stat. 218; 42 United States Code sections 3001
45 through 3058ee).

1 3. For services pursuant to title 36, chapter 29, article 2.
2 4. With an eligible entity as defined by Public Law 105-285, section
3 673(1)(a)(i), as amended, for designated community services block grant
4 program monies and any other monies given to the eligible entity that
5 accomplishes the purpose of Public Law 105-285, section 672.
6 Q. The department of health services may not require that persons with
7 whom it contracts follow ~~the provisions of~~ this chapter for the purposes of
8 subcontracts entered into for the provision of the following:
9 1. Mental health services pursuant to section 36-189, subsection B.
10 2. Services for the seriously mentally ill pursuant to title 36,
11 chapter 5, article 10.
12 3. Drug and alcohol services pursuant to section 36-141.
13 4. Domestic violence services pursuant to title 36, chapter 30,
14 article 1.
15 R. The department of health services is exempt from ~~the provisions of~~
16 this chapter for contracts for services of physicians at the Arizona state
17 hospital.
18 S. Contracts for goods and services approved by the ~~fund manager~~ BOARD
19 OF TRUSTEES of the public safety personnel retirement system are exempt from
20 ~~the provisions of~~ this chapter.
21 T. The Arizona department of agriculture is exempt from this chapter
22 with respect to contracts for private labor and equipment to effect cotton or
23 cotton stubble plow-up pursuant to rules adopted under title 3, chapter 2,
24 article 1. On or before September 1 of each year, the director of the
25 Arizona department of agriculture shall establish and announce costs for each
26 acre of cotton or cotton stubble to be abated by private contractors.
27 U. The Arizona state parks board is exempt from ~~the provisions of~~ this
28 chapter for purchases of guest supplies and items for resale such as food,
29 linens, gift items, sundries, furniture, china, glassware and utensils for
30 the facilities located in the Tonto natural bridge state park.
31 V. The Arizona state parks board is exempt from ~~the provisions of~~ this
32 chapter for the purchase, production, promotion, distribution and sale of
33 publications, souvenirs and sundry items obtained and produced for resale.
34 W. The Arizona state schools for the deaf and the blind are exempt
35 from ~~the provisions of~~ this chapter when purchasing products through a
36 cooperative that is organized and operates in accordance with state law if
37 such products are not available on a statewide contract and are related to
38 the operation of the schools or are products for which special discounts are
39 offered for educational institutions.
40 X. Expenditures of monies in the morale, welfare and recreational fund
41 established by section 26-153 are exempt from ~~the provisions of~~ this chapter.
42 Y. Notwithstanding section 41-2534, the director of the state
43 department of corrections may contract with local medical providers in
44 counties with a population of less than four hundred thousand persons

1 according to the most recent United States decennial census for the following
2 purposes:

3 1. To acquire hospital and professional medical services for inmates
4 who are incarcerated in state department of corrections facilities that are
5 located in those counties.

6 2. To ensure the availability of emergency medical services to inmates
7 in all counties by contracting with the closest medical facility that offers
8 emergency treatment and stabilization.

9 3. The department of environmental quality is exempt from the
10 ~~provisions of~~ this chapter for contracting for procurements relating to the
11 water quality assurance revolving fund program established pursuant to title
12 49, chapter 2, article 5. The department shall engage in a source selection
13 process that is similar to the procedures prescribed by this chapter. The
14 department may contract for remedial actions with a single selection process.
15 The exclusive remedy for disputes or claims relating to contracting pursuant
16 to this subsection is as prescribed by article 9 of this chapter and the
17 rules adopted pursuant to that article. All other procurement by the
18 department shall be as prescribed by this chapter.

19 AA. The motor vehicle division of the department of transportation is
20 exempt from the ~~provisions of~~ this chapter for third party authorizations
21 pursuant to title 28, chapter 13, only if all of the following conditions
22 exist:

23 1. The division does not pay any public monies to an authorized third
24 party.

25 2. Exclusivity is not granted to an authorized third party.

26 3. The director has complied with the requirements prescribed in title
27 28, chapter 13 in selecting an authorized third party.

28 BB. This section does not exempt third party authorizations pursuant
29 to title 28, chapter 13 from any other applicable law.

30 CC. The state forester is exempt from the ~~provisions of~~ this chapter
31 for purchases and contracts relating to wild land fire suppression and
32 pre-positioning equipment resources and for other activities related to
33 combating wild land fires and other unplanned risk activities, including
34 fire, flood, earthquake, wind and hazardous material responses. All other
35 procurement by the state forester shall be as prescribed by this chapter.

36 DD. The cotton research and protection council is exempt from the
37 ~~provisions of~~ this chapter for procurements relating to its aflatoxin control
38 program and for contracts for research programs related to cotton production
39 or protection.

40 EE. Expenditures of monies in the Arizona agricultural protection fund
41 established by section 3-3304 are exempt from this chapter.

1 Sec. 79. Section 41-3016.18, Arizona Revised Statutes, is amended to
2 read:

3 41-3016.18. Elected officials' retirement plan; public safety
4 personnel retirement system; corrections officer
5 retirement plan; termination July 1, 2016

6 A. The public safety personnel retirement system ~~fund manager~~ BOARD OF
7 TRUSTEES terminates on July 1, 2016.

8 B. Title 38, chapter 5, article 3 is repealed on January 1, 2017.

9 C. Title 38, chapter 5, article 4 is repealed on January 1, 2017.

10 D. Title 38, chapter 5, article 6 is repealed on January 1, 2017.

11 Sec. 80. Terms of members of the board of trustees

12 A. Notwithstanding section 38-848, Arizona Revised Statutes, as
13 amended by this act:

14 1. All persons serving as members of the board of trustees on the
15 effective date of this act may continue to serve until the expiration of
16 their normal terms.

17 2. The term of the new public member who is appointed by the governor
18 pursuant to this act expires on the third Monday in January, 2013.

19 3. The term of the new member who is an elected member from a local
20 board and who is appointed by the governor pursuant to this act expires on
21 the third Monday in January, 2016.

22 B. The governor shall make all subsequent appointments as prescribed
23 by statute.

24 Sec. 81. Special advisors to the board of trustees

25 The board of trustees established by section 38-848, Arizona Revised
26 Statutes, shall not use former members of the board as special advisors to
27 assist the board in fulfilling its statutorily prescribed duties.

28 Sec. 82. Emergency

29 This act is an emergency measure that is necessary to preserve the
30 public peace, health or safety and is operative immediately as provided by
31 law.

APPROVED BY THE GOVERNOR APRIL 28, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 28, 2010.